



State of New Jersey

DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

P.O. Box 712
Trenton, NJ 08625-0712

CHRIS CHRISTIE
Governor

ELIZABETH CONNOLLY
Acting Commissioner

KIM GUADAGNO
Lt. Governor

MEGHAN DAVEY
Director

STATE OF NEW JERSEY
DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE
AND HEALTH SERVICES

A.D.

PETITIONER,

V.

DIVISION OF MEDICAL ASSISTANCE

AND HEALTH SERVICES &

CAMDEN COUNTY BOARD OF

SOCIAL SERVICES,

RESPONDENTS.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 14323-2016

ON REMAND HMA 2068-2016

As Director of the Division of Medical Assistance and Health Services (DMAHS), I have reviewed the record in this case, including the OAL case file, the documents in evidence and the Initial Decision in this matter. No exceptions were filed in this matter. Procedurally, the time period for the Agency Head to file a Final Agency Decision in this matter is December 19, 2017, in accordance with an Order of Extension.

Petitioner applied for Medicaid benefits in April 2015. She had used \$78,000 to purchase a Croatian Annuity that paid her \$8,673.90 for nine months beginning in December 2014. She also transferred \$51,000 to her daughter. Camden County imposed a penalty and Petitioner sought a fair hearing.

In the prior matter, I had determined that Petitioner's eligibility date could not be established on the record. There appeared to be a credit held by the nursing home that was a resource to Petitioner. On remand, the parties agreed that the nursing home held \$5,140 that could be used for Petitioner's care. As such the parties agreed she was over income in October 2015. The first date of eligibility would be November 1, 2015 so as to start the penalty period for the \$51,000.

Petitioner still contends that she was eligible prior to that date, specifically April 1, 2015. I addressed the issue of the April 2015 date and the improper funding of the QIT in the prior proceeding and those findings are incorporated here by reference. There was no QIT or appurtenant bank account until May 1, 2015. While it may seem doctrinaire, the federal rules regarding the counting of income as being received during a calendar month are precise.

Income is only considered "income" in the month it is received. N.J.A.C. 10:71-5.2(b)1. The unspent income in the following month counts towards resources. N.J.A.C. 10:71-4.1(c). See Supplemental Security Income (SSI) guidance, namely Program Operations Manual System (POMS), SI 00810.010 Relationship of Income to Resources ("In general, anything received in a month, from any source, is income to an individual, subject to the definition of income for SSI purposes in What is Income SI 00810.005. Anything the individual owned prior to the month under consideration is subject to the resource-counting rules. An item an individual receives in the current

month is income for the current month only. (See exceptions to this general rule in SI 00810.030.) If held by the individual until the following month, that item is subject to resource-counting rules. (See exception in SI 01110.100 - SI 01110.115.)”).

Based on my review of the record and the applicable law, for the reasons set forth above and in the Order of Remand for HMA 2068-2016, I hereby ADOPT the Initial Decision that Petitioner was eligible for Medicaid as of November 1, 2015 and the transfer penalty of \$51,000 will commence as of that date.

THEREFORE, it is on this *13th* day of DECEMBER 2017

ORDERED:

That the Initial Decision is hereby ADOPTED.



Meghan Davey, Director
Division of Medical Assistance
and Health Services