



State of New Jersey

DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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Director

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

M.R.,

PETITIONER,

ADMINISTRATIVE ACTION

v.

FINAL AGENCY DECISION

DIVISION OF MEDICAL ASSISTANCE
AND HEALTH SERVICES AND
MORRIS COUNTY BOARD OF
SOCIAL SERVICES,
RESPONDENTS:

OAL DKT. NO. HMA 17658-2016

As Director of the Division of Medical Assistance and Health Services, I have reviewed the record in this case, including the Initial Decision, the OAL case file and the documents filed below. Respondent filed exceptions in this matter. Procedurally, the time period for the Agency Head to file a Final Agency Decision in this matter is June 8, 2017 in accordance with an Order of Extension.

The matter arises regarding the denial of Petitioner's Medicaid application due to excess resources. Petitioner has applied twice for Medicaid benefits to cover her care

in a nursing facility. In June 2014 she applied for Medicaid but withdrew that application in September 2014. It is the second application, filed in January 2016, which is at issue here. Morris County denied the application in September 2016 due to excess resources.

Generally, only those applicants with income and non-exempt assets (resources) below specified levels may qualify for government-paid assistance. For the Medicaid Only program an individual's countable resources cannot exceed \$2,000 if she wishes to qualify for benefits. N.J.A.C. 10:71-4.5(c). A "resource" is defined as "any real or personal property which is owned by the applicant ... and which could be converted to cash to be used for his/her support and maintenance." 20 C.F.R. §416.1201(a); N.J.A.C. 10:71-4.1(b). If the individual has the right, authority or power to liquidate the property, it is considered a resource. Id. Both liquid and non-liquid resources are considered in the determination of eligibility unless they are specifically excluded under N.J.A.C. 10:71-4.4.

The Initial Decision reversed the denial by finding that Petitioner's resources were only \$.21 over the \$2,000 limit. If that were the case, I would agree. However, the Initial Decision fails to recognize that Petitioner's bank account and Personal Needs Account (PNA) exceeded the \$2,000 limit in amounts that ranged from \$78.11 to \$524. R-1 at C. Indeed for the 16 months analyzed, Petitioner had \$2,000 in her bank account for each month save one when the balance dipped to \$1,979. When combined with her PNA account, Petitioner exceeds the resource limit in each and every month. It was not the pennies of interest on the PNC Bank Account that made Petitioner ineligible; but the hundreds of dollars in her PNA account that put her over the \$2,000 limit.

Based on my review of the record, I REVERSE the Initial Decision. The record is clear that Petitioner had resources in excess of \$2,000 each and every month she is seeking eligibility. I FIND that Initial Decision incorrectly determined that Petitioner's only bar to eligibility was the pennies in interest that raised her bank account above \$2,000. It is clear from Morris County's submission at the hearing as well as in exceptions that Petitioner's PNA account at Lincoln Park put her above the \$2,000 limit. From October 2015 through January 2017, when the funds were finally spent down, Petitioner's PNA account exceeded \$500 for five of the 16 months; \$400 for six of those months; \$396 for one month; over \$100 for three months; and \$78 balance in January 2016. P-1 and R-1 at D. These resources are not minimal or subject to rounding but render Petitioner ineligible due to excess resources.

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The Initial Decision states that Petitioner should be granted eligibility because it would be "patently unfair" to uphold the denial. That is not how Medicaid works. "Medicaid is an intensely regulated program." H.K. v. Div. of Med. Assistance & Health Servs., 184 N.J. 367, 380 (2005). DMAHS is obligated to administer New Jersey's Medicaid program in a fiscally responsible manner to ensure that the limited funds available are maximized for all program participants, Dougherty v. Dep't of Human Servs., Div. of Med. Assistance & Health Servs., 91 N.J. 1, 4-5 (1982); Estate of DeMartino v. Div. of Med. Assistance & Health Servs., 373 N.J. Super. 210, 217-19 (App. Div. 2004), certif. denied, 182 N.J. 425 (2005). Eligibility must exist as of the first moment of the first day of the month. N.J.A.C. 10:71-4.5(a)(1). There is no statutory or regulatory leeway to grant Medicaid benefits to those who are above the resource limit. Rather this is a bright line test. Petitioner failed to show that her resources were at or

below \$2,000 until February 2017. She did reapply that month and the application is pending.

Moreover, the delay in the application process is not the cause of Petitioner having excess resources. Had Petitioner met the resource standard at any time during that process, Morris County would have been able to set the eligibility date when Petitioner met the financial requirements. Both of Petitioner's applications, signed by the Medicaid Coordinator at the nursing home and Petitioner's Power of Attorney, respectively, acknowledged the \$2,000 limit. R-1 at A and B.

THEREFORE, it is on this <sup>10<sup>th</sup></sup> day of MAY 2017,

ORDERED:

That the Initial Decision is hereby REVERSED with regard to Petitioner's eligibility based on the January 2016 application; and

That Morris County should continue with the processing of the February 2017 application.

  
Meghan Davey, Director  
Division of Medical Assistance  
and Health Services