



State of New Jersey

DEPARTMENT OF HUMAN SERVICES  
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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MEGHAN DAVEY  
Director

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

R.P.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE

AND HEALTH SERVICES AND

GLOUCESTER COUNTY BOARD OF

SOCIAL SERVICES,

RESPONDENTS.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 5302-2017

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. Procedurally, the time period for the Agency Head to file a Final Decision is December 26, 2017, in accordance with and Order of Extension.

The matter arises regarding the termination of Petitioner's Medicaid benefits for failure to provide information regarding Petitioner's assets on redetermination.

Gloucester County had received Petitioner's reapplication form from the nursing home. It was signed on October 26, 2016 by the business office. Gloucester County requested additional information regard three bank accounts as well as the case value of two life insurance policies. R-1 at 5. No further information was received from the nursing home and, by letter dated February 2, 2017, the case was terminated on March 31, 2017. R-1 at 6.

Petitioner claims that he was incapacitated and, as such, could not complete the redetermination or access his funds. It is undisputed that Petitioner had funds in excess of \$2,000 which rendered him ineligible for benefits. It is not clear if Petitioner ever was eligible due to these assets. The nursing home filed a petition for guardianship in late 2016 and a guardian was appointed March 8, 2017.

The Initial Decision found that termination should be reversed as Petitioner Petitioner's assets "were no accessible through no fault of [his] own." ID at 13. However, based on my review of the record, I hereby REVERSE the Initial Decision. I find that the record does not support the findings of facts used to conclude the termination should be reversed.

The record shows that Petitioner had named his step-daughter and granddaughter as joint Powers of Attorney (POA). See P-2 at 9 and 10. The various documents indicate that banking institution and insurance companies had recognized this authority by disclosing information to them. His step-daughter was the trustee for his Qualified Income Trust (QIT). Thus, Petitioner had the ability to access his resources and accounts through the POA that was only revoked at the time the guardian was appointed.

As neither Petitioner nor his POA testified at the hearing, there is no basis for the finding that Petitioner or his POA was unaware of the insurance policies or property he owned with his wife. The fact that they were not listed on Petitioner's Medicaid application does not indicate a lack of knowledge. Rather the documents show that Petitioner's POA received information about the value of the life insurance in December 2015. P-2 at 10. In order to find out about the value of the life insurance, the POA included a copy of the policy that listed Petitioner's address as the property in question. There is no doubt that Petitioner, through his attorney-in-fact, was aware of the life insurance and the property.

The Initial Decision's speculation on whether nursing home, who was completing the redetermination form for Petitioner, knew that the December 13, 2016 letter would result in termination of Petitioner's Medicaid benefits is not based on the nursing home's understanding of the term. The nursing home did not testify at the hearing and, moreover, the February 21, 2017 letter made it clear that Petitioner's case was terminated. The nursing facility provided no information to Gloucester County about any pending guardianship when it received that letter.

In exceptions, Gloucester County denied knowledge of Petitioner's alleged incapacity and the record supports that denial. There is no certification of service to Gloucester County of the guardianship complaint and no letters from the nursing home or its attorney who initiated the guardianship proceedings. However, the issue of the guardianship is immaterial as Petitioner had a POA that could and did act for him up until the appointment of the guardian.

The record contains QIT bank statements through February 8, 2017. Those records show that Petitioner's step-daughter, as the trustee of his QIT, was depositing

funds in December 2016 and January 2017 as well as paying the nursing home in December 2016. P-2 at 7. Regardless of how helpful his step-daughter may have been during the redetermination process, it is undisputed that she had both the legal authority and physical and mental ability to at minimum access the QIT bank account. Noting in the record indicates that the POA had been revoked at any time prior to the March 2, 2017 guardianship order. As such, Petitioner, through his POA, had the authority to access his financial information and provide the documentation necessary to determine if he remained eligible.

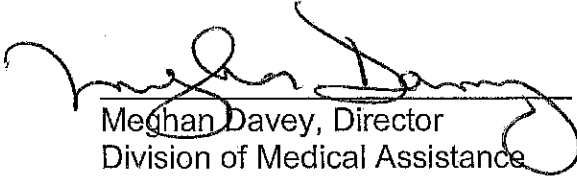
Gloucester County also disputes the finding that Petitioner, through his Guardian, has provided all necessary information to determine eligibility. There is no indication that there is a new QIT. Petitioner's income is over \$2,900. R-1 at 2. His prior QIT was closed and absent a properly executed QIT, he is not eligible for Medicaid. Moreover, by letter dated March 22, 2017 the cash value of the insurance policies exceeded \$12,000. R-1 at 8.

Thus, for the reasons set forth above, I hereby REVERSE the Initial Decision and reinstate the termination. Gloucester County shall review the matter for incorrectly paid benefits and Petitioner may reapply for benefits.

THEREFORE, it is on this <sup>4th</sup> day of DECEMBER 2017,

ORDERED:

That the Initial Decision is hereby REVERSED;

  
Meghan Davey, Director  
Division of Medical Assistance  
and Health Services