



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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Governor

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CAROLE JOHNSON
Commissioner

JENNIFER LANGER JACOBS
Assistant Commissioner

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

J.V.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE :

AND HEALTH SERVICES AND :

MORRIS COUNTY BOARD OF :

SOCIAL SERVICES,

RESPONDENTS.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 17380-2019

As Assistant Commissioner of the Division of Medical Assistance and Health Services, I have reviewed the record in this matter, consisting of the Initial Decision, the documents in evidence and the contents of the OAL case file. No exceptions were filed to the Initial Decision. Procedurally, the time period for the Agency Head to file a Final Decision is July 1, 2020 in accordance with an Order of Extension.

This matter was transmitted as an appeal of the imposition of a transfer penalty. Petitioner transferred \$3,000 in November 2017. She applied for benefits in July 2019. By

letter dated November 7, 2019 she was determined eligible as of July 1 and subject to the transfer penalty. Additionally, she was denied retroactive eligibility for the three months prior to application due to resources in excess of \$20,000. R-F. On November 21, 2019 Petitioner, through the nursing home as her Designated Authorized Representative, appealed claiming "family was not notified that the penalty had to be paid prior to Medicaid approval." As such the matter was transmitted on the issue of the transfer penalty.

At the hearing, a new issue was raised about the denial of Pre-Eligibility Medical Expenses (PEME) to be applied to her post-eligibility income. Petitioner is entitled to have up to the three months prior to the Medicaid application covered either through a finding that she was eligible for those three months or permit certain medical expenses incurred in the three month period prior to eligibility date be paid out his post-eligibility income. See N.J.A.C. 10:49-2.9(b), 42 U.S.C. § 1396a(a)(34) and Medicaid Communication No. 10-07. She was not found to be retroactively eligible due to excess resources during those months. R-F.

In accordance with Medicaid Communication No. 11-06, the nursing home has to fill out forms that provide specific information regarding the PEME expenses. Those forms are not part of the record and Petitioner provided no documentation at the hearing. Petitioner's bank account show that during the three months preceding eligibility she paid \$11,980 in April 2019 and \$22,575 in June 2019 to the nursing facility. There is nothing in the record that shows there were any unpaid nursing home bills or that the nursing home made the request.

The Initial Decision upholds the denial of PEME. However, that issue was not transferred to the OAL and there is no information in the record about any PEME request. See N.J.A.C. 1:1-3. The record shows that Petitioner does not contest that she was subject to a penalty and provided no evidence to counter the penalty. That was the sole issue as found in the November 7, 2019 notice that formed the basis of the appeal. See N.J.A.C. 10:49-10.3. Additionally, the hearing packet prepared by Morris County contains no information about PEME and Petitioner presented no evidence at the hearing that a request

for PEME was filed or that, despite paying over \$33,000 during the three months prior to applying, she had unpaid medical bills.

THEREFORE, it is on this 1 day of JULY 2020,

ORDERED:

That the Initial Decision is hereby ADOPTED and MODIFIED in so far that the issue that was requested by Petitioner was not contested and that Petitioner has not met her burden that she is entitled to PEME.



Jennifer Langer Jacobs, Assistant Commissioner
Division of Medical Assistance
and Health Services