

I hereby ADOPT in part and REMAND in part the findings, conclusions and recommended decision of the Administrative Law Judge affirming the recovery of incorrectly paid Medicaid benefits.

Petitioner is a Medicaid recipient through the Managed Long Term Services and Supports (MLTSS) program. As such, he has a resource eligibility limit of \$2,000. N.J.A.C. 10:71-4.1(e); N.J.A.C. 10:71-4.5(c). Petitioner argues that those months in which he was over the resource limit, he held a joint bank account with his wife. I note that if Petitioner's wife is also a Medicaid recipient, she is also subject to a resource eligibility limit of \$2,000. Accordingly, Petitioner's joint bank account should not have exceeded a total of \$4,000 in combined resources. It follows, that an overpayment should have been charged in any month exceeding \$4,000.

The Division is statutorily authorized to seek reimbursement of Medicaid overpayments. Indeed, recovery in this matter is based upon N.J.S.A. 30:4D-7.i., which mandates the Division to take all necessary action to recover the cost of incorrectly paid benefits from the recipient, legally responsible relative or any party whose action or inaction resulted in the incorrect payment. Additionally, N.J.A.C. 10:49-14.4(b) lends further support to Mercer County's ability to recover medical assistance incorrectly granted:

1. In instances involving incorrect eligibility for medical assistance, whether or not in combination with cash assistance, the County Board of Social Services (CBOSS) shall determine the period(s) of ineligibility and ascertain from DMAHS the amount of medical assistance incorrectly granted. The County Board of Social Services (CBOSS) shall then attempt recovery of medical assistance incorrectly granted either by administrative collection, or by way of restitution in a criminal or disorderly persons proceeding.

The undisputed facts in this case indicate that Petitioner's bank account exceeded \$4,000 in the months of September, October and November 2019. Petitioner was ineligible for Medicaid from September through November 2019 due to resources exceeding the \$2,000 limit. However, as stated above, if Petitioner's wife is also Medicaid recipient, then he should not have been charged an overpayment for the month of August 2019, as that

amount did not exceed combined resources of \$4,000.

THEREFORE, it is on this ^{23rd} day of FEBRUARY 2021,

ORDERED:

That the Initial Decision is hereby ADOPTED with regard to the finding that Mercer County appropriately sought Medicaid overpayments for the months of September, October and November 2019; and

That the Initial Decision is hereby REMANDED to determine whether Petitioner's wife was also a Medicaid recipient during August 2019 and subject to the \$2,000 resource limit, resulting in the combined resource limit of \$4,000.



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