

an identified need (including improving and maintaining the participant's opportunities for full membership in the community) and meet the following requirements: the item or service would decrease the need for other Medicaid services; and/or promote inclusion in the community; and/or increase the participant's safety in the home environment; and, the participant does not have the funds to purchase the item or service or the item or service is not available through another source." Section 17.9.1 Supports Program Manual.

By way of settlement, the parties agreed to resolve the issues surrounding the Goods and Services Request, withdrawing the request of a fair hearing. In the Initial Decision, dated January 12, 2021, the Administrative Law Judge approved the Settlement Agreement. For the reasons set forth below, I hereby REJECT the Settlement Agreement.

While the present matter relates to the Good and Services request submitted to DDD on or about July 20, 2020, the Settlement Agreement additionally discusses DDD's denial of Petitioner's Assistive Technology (AT) evaluation request.¹ Specifically, the Settlement Agreement provides that in exchange for withdrawing Petitioner's Goods and Services request in the present matter, Petitioner may submit a new AT evaluation request, which DDD shall approve. Settlement Agreement at 3. However, as noted in the Settlement Agreement, Petitioner's AT evaluation request was never formally appealed through submission to the Division of Medical Assistance and Health Services, and therefore, was never transmitted to the Office of Administrative Law (OAL) as a contested matter. See N.J.A.C. 1:1-3.2 and Settlement Agreement at 2. Accordingly, Petitioner's AT evaluation

¹ It is unclear from the record whether the AT evaluation request and denial discussed in the Settlement Agreement was submitted prior to or subsequent to DDD's denial of the Goods and Services request at issue in this matter. Specifically, the Settlement Agreement states that the AT evaluation request was "subsequently submitted" by the Petitioner following the transmission of the present matter to the Office of Administrative Law for a hearing; however, Petitioner's appeal of the Goods and Services denial provides that an AT evaluation request was submitted in May 2020. Regardless, the parties recognize in the Settlement Agreement that DDD's denial of Petitioner's AT evaluation request was not formally appealed. See Settlement Agreement at 2.

request and subsequent denial are not properly before the OAL for determination and cannot be used as consideration for settling the present matter.

THEREFORE, it is on this 14th day of APRIL 2021,

ORDERED:

That the Settlement Agreement is hereby REJECTED; and

That the matter is REMANDED to the Office of Administrative Law for further action on the issue of Petitioner's Goods and Services request.



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