

The issue presented here is whether Petitioner is required to pay the Medicaid overpayment for that period of time during which she had access to a joint bank account with resources that exceeded the \$2,000 limit for an individual. Based upon my review of the record, I hereby ADOPT the Initial Decision in its entirety and incorporate the same herein by reference.

Participation in the Medicaid program will be denied if the resources of an individual exceed \$2000 as of the first moment of the first day of the month. See N.J.A.C. 10:71-4.5. 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." See 20 C.F.R. § 416.1201(a) and 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. Ibid. A resource is "countable" for purposes of eligibility determinations if it is "available to the applicant/beneficiary or any person acting on his or her behalf." N.J.A.C. 10:71-4.1(c)(3) (emphasis added). The undisputed evidence in the record indicates that Petitioner's available resources exceeded that limit.

On January 13, 2016, Petitioner filed an application for Medicaid benefits with the Bergen County Board of Social Services (BCBSS). No income or resources were reported on the Petitioner's initial application or redeterminations. BCBSS utilized the Asset Verification System (AVS) during Petitioner's May 2020 redetermination and discovered the Petitioner held a joint bank account with her daughter. Petitioner had unrestricted access to the funds in the joint bank account she held with her daughter. It is undisputed that the bank account had a balance of more than \$50,000 from April 1, 2017 through August 31, 2020, well exceeding the \$2,000 limit pursuant to N.J.A.C. 10:71-4.5(c).

BCBSS is obligated by statute and regulation to seek reimbursement of incorrectly paid benefits. N.J.A.C. 30:4d-7i and N.J.A.C. 10:49-14.4(b). However, Petitioner's Medicaid benefits were continued as a result of the Families First Coronavirus Response Act H.R. 6021,

the Families First Coronavirus Response Act (FFCRA) (Pub. L. 116-127), and the overpayment charges from March 2020 through present need to be reevaluated in light of the State's obligations thereunder. As such I am RETURNING this matter to the BCBSS to recalculate the amount of Petitioner's overpayment.

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

ORDERED:

That the Initial Decision is hereby ADOPTED with regard to the finding that Mercer County appropriately sought Medicaid overpayments from Petitioner; and

That the matter is hereby RETURNED to BCBSS to recalculate the amount of overpayment in accordance with the FFCRA.



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