



State of New Jersey
Department of Human Services
Division of Medical Assistance and Health Services
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Lt. Governor

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Director

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

T.W.,

PETITIONER,

ADMINISTRATIVE ACTION

v.

FINAL AGENCY DECISION

DIVISION OF MEDICAL ASSISTANCE
AND HEALTH SERVICES AND
ATLANTIC COUNTY DIVISION OF
FAMILY AND COMMUNITY
DEVELOPMENT,

OAL DKT. NO. HMA 04074-20

RESPONDENTS.

As Assistant Commissioner for the Division of Medical Assistance and Health Services, I have reviewed the record in this case, including the Initial Decision, the OAL case file, the documents filed below. Both parties filed exceptions. Procedurally, the time period for the Agency Head to file a Final Agency Decision in this matter is May 14, 2021 in accordance with N.J.S.A. 52:14B-10, which requires an Agency Head to adopt, reject or modify the Initial Decision within 45 days of the agency's receipt. The Initial Decision was received on March 30, 2021.

This matter arises from the Atlantic County Division of Family and Community Development's (Atlantic) March 26, 2020 denial of Petitioner's Medicaid application because the Petitioner's resources exceeded the \$2,000 limit pursuant to N.J.A.C. 10:71-4.5. 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. The undisputed evidence in the record indicates that Petitioner's available resources exceeded that limit. 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 New Jersey Superior Court, Appellate Division has upheld the denial of an application where the applicant argued that her assets were not available through no fault of her own. In S.D. vs. DMAHS and Bergen County Board of Social Services, The court found that the applicant, who had a power of attorney and then a guardian, had "the capacity, through her representatives, to access her resources." S.D. vs. DMAHS and Bergen County Board of Social Services, No. A-5911-10 (App. Div. February 22, 2013). As J.H.S. was appointed Petitioner's guardian, these funds were accessible to Petitioner, rendering I.L. vs. DMAHS, 389 N.J. Super. 354 (2006) inapplicable.¹

¹ J.H.S. was appointed Petitioner's temporary guardian on February 11, 2016 and then Petitioner's permanent guardian on August 3, 2016, prior to filing Petitioner's Medicaid applications in April 2016 and March 2017. On January 4, 2018, approximately six months after Petitioner's passing, J.H.S. was appointed administrator of her estate. Additionally, it should be noted that contrary to Petitioner's representative's exceptions, there is no evidence in the record that Petitioner's family abandoned her or was uncooperative.

THEREFORE, it is on this 4th day of MAY 2021,

ORDERED:

That the Initial Decision is hereby ADOPTED.



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