



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. HMA 15079-25
AGENCY DKT. N/A

H.P. and G.P.¹,

Petitioners,

v.

**DIVISION OF MEDICAL ASSISTANCE AND
HEALTH SERVICES,**

Respondent.

Cassandra Stabbert, Esq., for petitioners (Legal Services of New Jersey,
attorneys)

Michael Alpaugh, Supervising Program Support Specialist, for respondent under
N.J.A.C. 1:1-5.4(a)(3)

Record Closed: February 23, 2026

Decided: March 16, 2026

BEFORE DEIRDRE HARTMAN-ZOHLMAN, ALJ:

STATEMENT OF THE CASE

¹ H.P.'s appeal is listed under the above docket number. G.P.'s appeal is stapled to H.P.'s appeal and is not assigned a separate docket number.

H.P. and G.P., a married couple (petitioners), appeal a denial of New Jersey's Medicare Savings Program (MSP) by the Division of Medical Assistance and Health Services (DMAHS or respondent) based on excess income. DMAHS determined that petitioners were ineligible for the MSPs because their income exceeded the limit for a married couple or a household of two. The limit is set in relation to the federal poverty level, which varies depending on family or household size. Petitioners argue they should have been evaluated as a household of three because they have a disabled adult daughter living at home. The issue is whether it was appropriate for DMAHS to evaluate petitioners' income eligibility as a married couple or whether it should have evaluated them as a household of three.

STATEMENT OF FACTS AND PROCEDURAL HISTORY

The facts in the case, including the source of income and the calculation of petitioners' total income, are not in dispute.

On June 5, 2025, petitioners filed an application under the MSP. (R-1.) By letter dated July 9, 2025, petitioners were advised that they were determined ineligible for the MSP due to being over the program's income limits, in accordance with N.J.A.C. 10:72-4.1(b). (R-2.) Petitioners requested a fair hearing, and the matter was transmitted by the DMAHS to the Office of Administrative Law (OAL), where it was filed on August 26, 2025, as a contested case under N.J.S.A. 52:14B-1 to -15 and 14F-1 to -13.

Petitioners' eligibility determination was based upon MSP review of petitioners as a household of two consistent with DMAHS's longstanding practice to evaluate applicants either as individuals or married couples. Petitioners argue that they are a household of three because they have a disabled adult daughter. DMAHS uses limits set forth by the DMAHS.² For each Medicaid program, DMAHS identifies income limits in relation to the poverty level, which varies depending on household size. For MSPs, income and resource limits are only provided for household sizes of one or two (single individuals or

² Medicaid Communication No. 25-03 set the income limits for 2025: Department of Human Services, Medicaid Communication No. 25-03 (2025), <https://www.nj.gov/humanservices/dmahs/info/resources/medicaid/2025/25-03%20Income%20Eligibility%20Standards%20Effective%20January%201%202025.pdf>

married couples). There are three types of MSPs: 1) Qualified Medicare Beneficiary, 2) Specified Low Income Beneficiary, and 3) Qualifying Individual. DMAHS determined petitioners' income was \$28,944, which exceeds the 2025 income limits for married couples in all three programs.

After conferring on the matter, the parties agreed that no hearing was required, and the matter could be decided on summary decision. The parties filed written submissions on or before February 20, 2026, and the record closed.

LEGAL DISCUSSION

1. Federal law

Petitioners argue that DMAHS's current practice of only looking at applicants as single individuals or married couples violates federal law. However, considering recent legislation, it appears that federal law does not currently require New Jersey to adjust the poverty level for family size beyond a household of two.

In September 2023, the Centers for Medicare and Medicaid Services (CMS) published a final rule that would have forced states to align the definition of family size used in determining eligibility for MSPs with the definition of family size used in determining eligibility for Medicare Part D's Low Income Subsidy Program (LIS). Before the rule change, federal law set income eligibility limits relative to the poverty level "applicable to a family of the size involved." Streamlining Medicaid: Medicare Savings Program Eligibility Determination and Enrollment, 88 Fed. Reg. 65230, 65247 (Sept. 21, 2023).³ However, because the phrase "family of the size involved" was not defined in the statute, the CMS "historically permitted States to apply their own reasonable definition of that phrase." Ibid. The new definition would have defined family size to include the applicant and spouse, *as well as dependents living in the same household.* Ibid. An implementation deadline was set for April 2026; however, in July 2025, Congress passed a budget reconciliation bill that placed a moratorium lasting through September 2034 on

³ Available at: <https://www.govinfo.gov/content/pkg/FR-2023-09-21/pdf/2023-20382.pdf>

certain provisions of the final rule, including the family size provision. The CMS acknowledged when it published the final rule that thirty-five states would likely be impacted by the change in definition. (Resp't Brief at 8.) These states would need to submit State Plan Amendments and receive approval before revising their existing definitions.

Considering the final rule and the subsequent moratorium, it appears that federal law does not currently require states to adjust for family size beyond individuals and married couples when determining income eligibility for MSPs.

2. State law

Under N.J.A.C. 10:72-1.1(b)(4), to qualify for MSPs, applicants "must be residents of the State, must be receiving Medicare benefits, Parts A and B, and must meet the income and resource requirements specified in N.J.A.C. 10:72-4.1(b) and 4.5(b)." Section 4.1(b) states:

Effective with the first month of coverage, January 1, 1993, income limits for specified low-income Medicare beneficiaries shall be based on 110 percent of the poverty income guidelines as defined by the U.S. Department of Health and Human Services in accordance with Sections 1902(a)(10)(E)iii of the Social Security Act, 42 U.S.C. 1396a. Effective January 1, 1995, the income limits will be set at 120 percent of the Federal poverty level.

The enabling statute, the New Jersey Medical Assistance and Health Services Act, N.J.S.A. 30:4D-1 to -19.5., states a "qualified applicant" for purposes of MSPs

Is a specified low-income Medicare beneficiary pursuant to 42 U.S.C. § 1396a(a)10(E)iii whose . . . income beginning January 1, 1993 does not exceed 110% of the poverty level, and beginning January 1, 1995 does not exceed 120% of the poverty level.

[N.J.S.A. 30:4D-3(i)(15)(a).]

The statute defines “poverty level” as “the official poverty level *based on family size* established and adjusted under Section 673(2) of Subtitle B, the ‘Community Services Block Grant Act,’ of Pub.L.97-35 (42 U.S.C. § 9902(2)).” N.J.S.A. 30:4D-3(p) (emphasis added). Petitioners argue that the DMAHS’s “current practice of only recognizing households as one or two individuals is unreasonable and conflicts with the plain language of the NJ enabling statute.”

Petitioners rely on the Supreme Court’s opinion in G.C. v. Div. of Med. Assistance & Health Servs., 249 N.J. 20 (2021). In that case, the Court invalidated N.J.A.C. 10:72-4.4(d)(1), which outlined income eligibility requirements for the Aged, Blind, and Disabled (ABD) Medicaid Program, because it failed to adjust the poverty level comparison for family size. The relevant regulation stated: “If the countable income . . . of the aged, blind, or disabled individual exceeds the poverty income guideline for one person he or she is ineligible for benefits and income deeming does not apply.” Id. at 46 (quoting N.J.A.C. 10:72-4.4(d)(1)). However, the enabling statute defined a qualified applicant for ABD benefits as “an individual . . . whose income does not exceed 100% of the poverty level, *adjusted for family size . . .*” N.J.S.A. 30:4D-3(i)(11) (emphasis added). A Senate Committee statement to the bill establishing the ABD Medicaid Program explained the purpose of the bill was to expand Medicaid eligibility to “include persons who are 65 years of age and older, disabled or blind and *whose incomes are less than the appropriate poverty level for their family size . . .*” G.C., 249 N.J. at 42 (quoting S. Rev. Fin., & Appropriations Comm. Statement to S. 2972 (June 15, 1987)). The Court ultimately found that the regulation “contravenes the plain language and legislative intent of the [enabling statute], which requires that the income of prospective ABD beneficiaries be compared against the [federal poverty level] as adjusted for family size.” Ibid.

Here, petitioners argue that while G.C. is about ABD Medicaid, the underlying argument is the same for MSPs. In response, DMAHS stresses that MSPs and ABD Medicaid are fundamentally different programs. They are governed by different statutory provisions and regulations. (Resp’t Br. at 11.) Furthermore,

MSPs are designed to assist individuals solely with their Medicare Part A and Part B premiums, deductibles,

copayments and coinsurance depending on which particular program the individual qualifies for within MSPs. As a result, MSPs do not provide the same comprehensive and robust medical insurance coverage and benefits as ABD Medicaid

.....

[ibid.]

The primary difficulty with applying the logic in G.C. is that the Court justified invalidating the regulation because there was a clear conflict with the statute. The regulation's income eligibility requirements only looked at the federal poverty level for *one person*, despite the statute using the phrase "poverty level, adjusted for family size." N.J.A.C. 10:72-4.4(d)(1); N.J.S.A. 30:4D-3(i)(11).

Here, there is not a clear conflict between the language in N.J.A.C. 10:72-4.1(b) and N.J.S.A. 30:4D-3(i)(15)(a). Neither explicitly references "family size" or "household size." The only reference to "family size" in relation to MSPs comes in the definition of poverty level found in N.J.S.A. 30:4D-3(p). That provision simply states "poverty level" means "the official poverty level *based on family size* established and adjusted under Section 673(2) of Subtitle B, the 'Community Services Block Grant Act,' of Pub.L.97-35 (42 U.S.C. § 9902(2))." (Emphasis added.) DMAHS's current practice adjusts for family size, but only up to a household of two (i.e. a married couple). This approach is not clearly inconsistent with the statute or regulation.

Additionally, DMAHS's practice is supported by the legislative history behind N.J.S.A. 30:4D-3(i)(15). The provision was added as an amendment in 1992. An accompanying Assembly Committee statement makes no reference to adjusting the poverty level for family size beyond considering individuals or married couples. The statement reads: "The Supplemental Security Income resource standard is \$2,000 for a single person and \$3,000 for a married couple. The 1992 poverty level is \$6,810 for a single person and \$9,190 for a family of two." Assemb. Senior Citizens & Social Servs. Comm. Statement to A1895 (Oct. 1, 1992).⁴

⁴ The legislative history is available on the NJ State Library's website: <https://repo.njstatelib.org/server/api/core/bitstreams/3a0072b1-bd59-4252-9831-1ec14a40dd0f/content>

Courts have long held that a “legislative grant of authority to an administrative agency must be liberally construed to enable the agency to accomplish its statutory responsibilities.” Lewis v. Catastrophic Illness in Children Relief Fund Comm’n, 336 N.J. Super. 361, 370 (App. Div.) certif. denied, 168 N.J. 290 (2001) (citing N.J. State League of Muns. v. Dep’t of Cmty. Affs., 158 N.J. 211, 223 (1999)). Moreover, courts “have a strong inclination to defer to agency action provided it is consistent with the legislative grant of power.” Ibid. (citing In re Township of Warren, 132 N.J. 1, 26 (1993)).

N.J.S.A. 30:4D-3 does not explain when and how to adjust the poverty level when determining income eligibility for MSPs. DMAHS’s practice of only considering household sizes of one or two does not clearly contravene the language of the statute; it also appears consistent with the legislative history behind N.J.S.A. 30:4D-3(i)(15)(a). Moreover, MSPs are not designed to provide as robust or comprehensive coverage as other Medicaid programs. Under these circumstances, deference is generally given to agencies when their actions are consistent with a legislative grant of power, and therefore, it is appropriate to defer to agency action.

CONCLUSION

DMAHS’s current practice of only recognizing households as one or two individuals does not contravene state or federal law. Neither state nor federal law requires a more expansive definition of family size than the one currently used by DMAHS. Therefore, it was appropriate for DMAHS to compare petitioners’ income to the poverty level for a married couple (a household of two) rather than a household of three. This is also consistent with the legislative history, which suggests that MSPs would only look at households of one or two. Thus, I **CONCLUDE** that DMAHS’s practice is consistent with its legislative grant of power, and therefore deference should be given to the agency’s actions. I **FIND** that petitioners are ineligible for MSPs because their income exceeded allowable limits in 2025 for a married couple.

ORDER

Based on the foregoing, it is **ORDERED** that DMAHS's decision to deny petitioners' MSPs because their income exceeded allowable limits in 2025 for a married couple is **AFFIRMED**.

I **FILE** this initial decision with the **ASSISTANT COMMISSIONER OF THE DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES**. This recommended decision is deemed adopted as the final agency decision under 42 U.S.C. § 1396a(e)(14)(A) and N.J.S.A. 52:14B-10(f). The **ASSISTANT COMMISSIONER OF THE DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES** cannot reject or modify this decision.

If you disagree with this decision, you have the right to seek judicial review under New Jersey Court Rule 2:2-3 by the Appellate Division, Superior Court of New Jersey, Richard J. Hughes Complex, PO Box 006, Trenton, New Jersey 08625. A request for judicial review must be made within 45 days from the date you receive this decision. If you have any questions about an appeal to the Appellate Division, you may call (609) 815-2950.

March 16, 2026

DATE



DEIRDRE HARTMAN-ZOHLMAN, ALJ

Date Received at Agency: _____

Date Mailed to Parties: _____

DHZ/sa/jm

APPENDIX

Exhibits

For petitioner:

P-1 Letter brief

For respondent:

R-1 Exhibit packet

R-2 Letter brief