



**State of New Jersey**

DEPARTMENT OF HUMAN SERVICES  
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

P.O. Box 712  
Trenton, NJ 08625-0712

CHRIS CHRISTIE  
*Governor*

ELIZABETH CONNOLLY  
*Acting Commissioner*

KIM GUADAGNO  
*Lt. Governor*

MEGHAN DAVEY  
*Director*

E.B.,

PETITIONER,

V.

DIVISION OF MEDICAL ASSISTANCE

AND HEALTH SERVICES &

MORRIS COUNTY BOARD OF

SOCIAL SERVICES,

RESPONDENTS.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 14388-2016

As Director of the Division of Medical Assistance and Health Services, I have

reviewed the record in this matter, consisting of the Initial Decision, the documents in evidence and the contents of the OAL case file. No exceptions were filed in this matter.

Procedurally, the time period for the Agency Head to render a Final Agency Decision is March 30, 2017 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 receipt. The Initial Decision was received on February 13, 2017.

This matter concerns the calculation of the community spouse maintenance allowance. Petitioner applied for benefits in March 2015. Petitioner's husband stated that the couple's son was paying for "all of his housing expenses." ID at 3. As such there were no shelter costs to increase the community spouse spousal allowance. All or nearly all of Petitioner's income was used to offset the Medicaid cost of care.

At redetermination, Petitioner did not provide any evidence that her husband was paying his housing costs. Additionally, she was no longer purchasing private insurance. As a result, Petitioner was obligated to pay \$629.40 towards her cost of care. R-I. Her husband appealed the calculation.

---

During the hearing, Petitioner's husband alleged for the first time that the payments made by his son were a loan and produced a handwritten promissory note purportedly dated August 1, 2013. P-1. The ALJ found that the promissory note was unreliable "as it was offered only after [speaking] to an elder care attorney [in October 2016], who informed him that a loan from his son would provide him with financial cover". ID at 4. I agree with this assessment. Petitioner now alleges that he pays for all of his own housing costs through a newly opened checking account. ID at 4. As a result, Morris County increased the community spouse deduction from Petitioner's income so that her cost share as of October 1, 2016 is \$0.

---

Petitioner argued that the cost share should be changed retroactively so as to have all of her income pay to her husband. I concur with the ALJ's conclusions that there was no basis to do as Petitioner's husband had repeatedly stated that his son paid for all of his expenses. Petitioner's cost share from January 2016 through September 2016 remains at \$629.40.

In reviewing the record I note that the tax assessor record for the end of 2014 through the second quarter of 2015 lists the owner of the property as the "[B.] Family Two Thousand Ten Irrevo." R-C. It appears that during this time period an irrevocable trust owned the home. It is not clear when the home was transferred to the trust but any transfers to the trust for the prior five years from Petitioner's 2015 application are subject to review. As such I hereby RETURN the matter to Morris County to review the real property owned by Petitioner and her husband and the nature of the trust and take any appropriate action.

THEREFORE, it is on this <sup>15<sup>th</sup></sup> day of MARCH 2017,

ORDERED:

That the Initial Decision is hereby ADOPTED.

  
Meghan Davey, Director  
Division of Medical Assistance  
and Health Services