



*State of New Jersey*

DEPARTMENT OF HUMAN SERVICES  
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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

L.A.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE

AND HEALTH SERVICES AND

MONMOUTH COUNTY BOARD OF

SOCIAL SERVICES,

RESPONDENTS.

**ADMINISTRATIVE ACTION**

**FINAL AGENCY DECISION**

**OAL DKT. NO. HMA 6627-2017**

As Director of the Division of Medical Assistance and Health Services, I have reviewed the record in this case, including the Initial Decision, the OAL case file and the documents filed below. Petitioner filed exceptions in this matter. Procedurally, the time period for the Agency Head to file a Final Agency Decision in this matter is November 24, 2017 in accordance with an Order of Extension.

The matter arises from the denial of Petitioner's application for Medicaid benefits for failure to provide verifications. Petitioner applied for Medicaid benefits in December

2016 through Application Pros, a company described as "application consultants specializing in NJ Medicaid." P-1. That application failed to disclose that Petitioner and her husband had set up a trust in 2006. The trust is an 86 page document created by The Estate Plan, a Reno, Nevada company. Monmouth County requested the trust and additional information when it discovered that Petitioner's house had been transferred into the trust in 2012.

The ALJ found that the testimony from Goldie Ribat from Application Pros and Gerald Hymanson, Esq. about the trust's assets was "insufficient to prove that all requisite verifications were submitted or are no longer necessary." ID at 7. As noted, Petitioner's husband had "limited knowledge about his case" and "did not understand what benefit the trust had or the benefit for his future estate planning." ID at 6 and 7. To the extent he testified about the home being transferred into the trust, that information was supported by the deed. Mr. Hymanson testified that it would be "up to the family . . . to keep track of assets in the trust." ID at 6.

The argument that Petitioner's tax returns shed light on the trust assets is imprecise. Tax returns do not list stocks, brokerage or bank accounts in the trust. Only if those trust accounts had a taxable event such as earning interest, dividends or capital gains or losses would that income be reported on the tax return. IRS Reg. § 1.671-4. Merely owning a bank or financial account does not cause it to be listed on a tax form.<sup>1</sup>

Petitioner's exceptions are based on a recording of the hearing. Neither that recording nor transcripts were provided. To that end, the exceptions are not supported

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<sup>1</sup> In the two tax returns that are part of the record, Petitioner and her husband reported no taxable interest or dividends on any accounts. Rather their taxable income for those years, \$85,000 and \$106,000, respectively, stemmed largely from wages, pensions and Social Security. P-1.


by the record presently before me. Petitioner's stated reason for setting up the trust to avoid probate is tenuous as the couple claims only the house was transferred into the trust. The 86 page document provides clear authority for Petitioner and her husband to invest in bonds, securities, purchase life insurance, fixed annuities and hybrid investments as well as providing letters to transfer existing assets into the trust. R-3 and Trust pages 28-30. The trust instructions state that in order to be effective "you must transfer all your assets into the Trust." R-3. Neither Petitioner nor his attorney provided any explanation whether this was heeded. These types of assets would not be found under normal asset searches or reported on income tax returns unless there was a taxable event.

Thus, I hereby ADOPT the Initial Decision.

THEREFORE, it is on this <sup>21<sup>st</sup></sup> day of NOVEMBER 2017,

ORDERED:

That the Initial Decision is hereby ADOPTED.

  
Meghan Davey, Director  
Division of Medical Assistance  
and Health Services