



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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CAROLE JOHNSON
Commissioner

CAROL GRANT
Acting Director

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

A.M.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE
AND HEALTH SERVICES AND
CAMDEN COUNTY BOARD OF
SOCIAL SERVICES,
RESPONDENTS.

ADMINISTRATIVE ACTION

ORDER OF REMAND

OAL DKT. NO. HMA 16181-2018

As Acting 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 to the Initial Decision were filed. Procedurally, the time period for the Agency Head to render a Final Agency Decision is July 1, 2019 in accordance with an Order of Extension.

Based upon my review of the record, I hereby REVERSE the recommended decision of the Administrative Law Judge and REMAND to OAL for further findings as to the circumstances surrounding the attempts to assess Petitioner for long term level of care.

While the sudden onset of cancer was tragic, Petitioner's income \$1,443.50 renders him ineligible for Medicaid benefits. In order to qualify for Medicaid his gross income would have to be \$1,012 or less under the New Jersey Care . . . Special Medicaid Program. Petitioner's only path to eligibility for Medicaid benefits is under the Long-Term Care Services and Supports (LTSS) program that permits the use of a higher income level - 300 percent of the SSI benefit amount. In order for eligibility to be granted using this higher income level, Petitioner must be in need of nursing level of care. See 42 CFR § 435.236 and 42 CFR § 435.1005. That level of care requires that a pre-admission screening (PAS) be completed by "professional staff designated by the Department, based on a comprehensive needs assessment which demonstrates that the recipient requires, at a minimum, the basic NF services described in N.J.A.C. 8:85-2.2." N.J.A.C. 8:85-2.1(a). See also, N.J.S.A. 30:4D-17.10, et seq. This must be done in person and prior to receipt of benefits so as not to create a Medicaid program in the community using the higher income level.

There is no evidence that Petitioner ever met nursing home level of care despite repeated hospitalizations. I note that hospitals are required to create and document a discharge plan. See N.J.A.C. 8:43G-11.5. That regulation requires "[p]atients who require post-discharge continuity of care shall be linked to needed resources." Examples of the needed resources included placement in a nursing home or enrollment with home care services, both of which could demonstrate he needed assistance with his ADLs. However, Petitioner was not discharged into a nursing home but returned to the community each time. P-3.

The record shows that Petitioner's wife sought Medicaid benefits to pay for his "medical bills due to chemo and radiation". P-3. These are not indicative of needing nursing home level of care. Moreover, his physician described his physical limitations as

“no heavy lifting > 10 lbs after med port placement.” R-1 at 21. When explaining why there was a reasonable indication that he “might need hospital or nursing home care within 30 days without home and community –based services,” his doctor stated he needs outpatient treatment such as chemotherapy or radiation. Ibid. Again, these are not indicative of needing nursing home level of care.

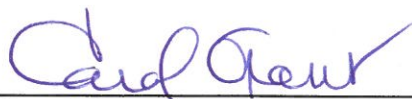
These documents on their own indicate that the dismissal of the assessment could have been warranted. As such, I hereby REVERSE the Initial Decision. However, OCCO, as the agency designated to determine clinical eligibility, should expand on the process as it relates to Petitioner’s case. Thus, the matter is hereby REMANDED to OAL for further findings about the OCCO assessment process regarding Petitioner.

THEREFORE, it is on this 27 day of JUNE 2019,

ORDERED:

That the Initial Decision is hereby REVERSED; and

That the matter is REMANDED to OAL for further findings as set forth above.



Carol Grant, Acting Director
Division of Medical Assistance
and Health Services