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

C.M.,

PETITIONER,

v.

SUSSEX COUNTY BOARD OF

SOCIAL SERVICES,

RESPONDENTS.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 01858-19

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, Respondent's Exceptions to the Initial Decision and Petitioner's response. Procedurally, the time period for the Agency Head to file a Final Decision is June 2, 2019, in accordance with an Order of Extension. The Initial Decision was received on March 4, 2019.

The matter arises regarding the termination of Petitioner's Medicaid benefits due to excess income. Petitioner is married and has four children. All four children are

claimed as tax dependents by Petitioner and her husband. Petitioner's husband owns and operates a farm business at a loss. Petitioner is presently employed and receives a monthly salary of \$3,917.26. Petitioner's oldest child, J.M., became employed in the second quarter of 2018 and earned an average monthly income of \$1299.60 through the fourth quarter of 2018. Sussex County terminated Petitioner's case as her son's income raised the household's countable income to \$3,999.36 which was above the \$3,978 monthly income limit.

The Affordable Care Act regulations establish a method for counting income based upon an applicant's Modified Adjusted Gross Income (MAGI). The countable income for MAGI is gross income according to the Internal Revenue Service Code. See 42 CFR § 435.603. Since MAGI methodology is based on the Internal Revenue Code, household compositions are identified as either tax filing or non-tax filing, with corresponding regulations governing each. 42 CFR § 435.603(f). N.J.A.C. 10:78-4.3(a) specifically states that, "countable income shall include the income of all members of the household unit . . ." Household unit "means those persons whose income is counted in the determination of eligibility... The following persons, if they reside with the program applicant or beneficiary, shall be considered members of the household unit:

1. In the case of a parent or caretaker:
 - i. The parent or caretaker;
 - ii. The spouse of the parent or caretaker;
 - iii. The parent or caretaker's natural or adoptive children under the age of 21 . . ."

See N.J.A.C. 10:78-3.5(a)(1) (emphasis added). However, the income of a child or tax dependent, "who is not expected to be required to file a tax return under section 6012(a)(1) of the Code of the taxable year in which eligibility for Medicaid is being determined, is not included in household income whether or not the individual files a tax

return.” See 42 CFR 435.603(d)(2). 26 USC 6012(a)(1) requires that a tax return to be filed for every individual having for the taxable year gross income which equals or exceeds the exemption amount. At the time of redetermination, the federal income tax filing threshold for single dependents was \$12,000.

J.M. did not exceed the \$12,000 exemption amount in 2018. Consequently, his income did not affect the total household income, or eligibility, for that year. However, the County Welfare Agency (CWA) determines eligibility prospectively. In fact, the CWA is required to estimate the income that will be available to the household unit. N.J.A.C. 10:72-4.2. The best estimate of income “shall be based on an average of the household unit’s income for the full one-month period preceding the date of application or redetermination,” and adjustments are made based on changes in income that have occurred or “which are reasonably anticipated to occur.” N.J.A.C. 10:72-4.2(a)(1). J.M. became employed in the second quarter of 2018 and remained employed through the fourth quarter.¹ His average monthly income at the time of redetermination was \$1,299. This monthly income would result in an estimated yearly income of \$15,588 which would require J.M. to file taxes in 2019. Accordingly, J.M.’s income was correctly included in the household income upon redetermination.

Given the information available to the CWA in the month prior to redetermination, Petitioner’s monthly income of \$3,917.26 and J.M.’s monthly income of \$1,299, less the \$1,217.50 loss from the Petitioner’s business resulted in a total monthly household income of \$3,999.36. This exceeds the \$3,978 income limit for a household of six.

THEREFORE, it is on this 4th day of MAY 2019,

ORDERED:

¹ While the ALJ opines that J.M. may work fewer hours in 2019, there is nothing in the record, neither in the Initial Decision nor in Petitioner’s exceptions, to suggest that this is his intent.

That the Initial Decision is hereby REVERSED. J.M.'s income was correctly included in the household income and Petitioner's Medicaid benefits were properly terminated.



Meghan Davey, Director
Division of Medical Assistance
and Health Services