



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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SHEILA Y. OLIVER  
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CAROLE JOHNSON  
Commissioner

JENNIFER LANGER JACOBS  
Assistant Commissioner

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

C.R.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE

AND HEALTH SERVICES AND

ESSEX COUNTY BOARD OF

SOCIAL SERVICES,

RESPONDENTS.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 5053-2019

As Assistant Commissioner for 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. No exceptions were filed in this matter. Procedurally, the time period for the Agency Head to render a Final Agency Decision is October 28, 2019 in accordance with an Order of Extension.

The matter arises regarding the determination that Petitioner was no longer eligible for benefits based on her income which includes Social Security and income from two rental units in the house she owns. Essex County determined that, based on her expenses, the rental income of \$1,600 netted Petitioner \$388.61 a month. When combined

with her Social Security benefit her income totaled \$1,317.61 which exceeded the \$1,041 income standard for 2019.<sup>1</sup>

At the hearing Petitioner's daughter brought eleven utility bills from July 2018 through June 2019 that show higher amounts spent on utilities. P-1. Petitioner pays utilities for the entire building which includes a two bedroom apartment on the second floor and a three bedroom apartment on the third floor. R-1. She resides on the first floor in a two bedroom apartment. For some reason Petitioner's unit was billed at an even \$424 or \$494 in eight of the eleven bills. The other two units that have the same or one more bedroom have significantly lower utilities. P-1.

Even using the cost of utilities as calculated in the Initial Decision, Petitioner has income \$32 in excess of the standard which renders her ineligible. ID at 4. I am not sure how this amount was calculated as the bills in the record result in utility charges of \$6,395.55 for eleven months through April of 2019. While the worksheet instructions are to divide the annual charges by twelve, using the eleven months presented, there is an average monthly utility expense of \$581.41 for the entire property. This causes Petitioner's net income from the rental to be \$200. When combined with her Social Security income, Petitioner has countable income of \$1,129 and is not eligible for benefits.

The Initial Decision takes judicial notice "that it is common for property taxes to increase, even slightly in a new year as well as homeowner's insurance premiums." Those increases "may have kept petitioner within the allowable income limit for 2019." ID at 4. I find no merit to this hypothetical finding and Petitioner did not provide proof of any change. Property tax bills in New Jersey are normally mailed in June or July. N.J.S.A. 54:4-66.2.

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<sup>1</sup> I agree that Essex County failed to use the appropriate income limit for 2019. However, at the time the income worksheet was done on February 7, 2019, the 2019 income limit had only recently been issued. See Medicaid Communication 12-03 stating "[t]he Federal Poverty Level (FPL) guidelines for 2019 were announced on January 11, 2019 and were made available online via the electronic version of the Federal Register on February 1, 2019." The use of the 2018 limit did not change the fact that Petitioner's income still exceeded the 2019 limit.

At the time of Petitioner's redetermination in March 2019 there was no basis to make any assumptions that her taxes had increased.

Based upon my review of the record, I hereby REVERSE the Initial Decision's recommended decision. Petitioner can reapply if her situation changes. However, at the time of redetermination she was not eligible.

THEREFORE, it is on this 28<sup>th</sup> day of OCTOBER 2019,

ORDERED:

That the Initial Decision is hereby REVERSED; and

That the termination of Petitioner's benefits was proper.



Jennifer Langer Jacobs, Assistant Commissioner  
Division of Medical Assistance  
and Health Services