

State of New Jersey Department of Human Services Division of Medical Assistance and Health Services P.O. BOX 712

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PHILIP D. MURPHY
Governor

Sheila Y. Oliver Lt. Governor Carole Johnson Commissioner

Meghan Davey Director

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

F.C.,

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 07330-18

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. No exceptions were filed in this matter. Procedurally, the time period for the Agency Head to file a Final Agency Decision in this matter is February 11,

2018 in accordance with an Order of Extension. The Initial Decision in this matter was received on November 13, 2018.

The matter arises regarding Petitioner's Medicaid application and the denial of Medicaid eligibility due to her failure to meet financial eligibility. By way of background, as of December 1, 2014, New Jersey received federal authority to cease covering nursing home services under Medically Needy and permit applicants, who needed institutional level of care in a nursing facility, an Assisted Living facility or home and had income in excess of \$2,163 (\$2,199 in 2016 and \$2,205 in 2017) to place the excess income in a Qualified Income Trust (QIT), also known as a Miller Trust, and obtain Medicaid benefits. See 42 U.S.C. § 1396p(d)(4)(B). Petitioner's monthly income of \$5,660.25 renders her ineligible until a QIT is established. By placing the excess income in a QIT, Monmouth County is able to exclude that amount from the income limit. Unless and until Petitioner placed his income in excess of \$2,199 amount into the QIT, his income would be considered over the limit. Petitioner concedes that the QIT was not fully funded in September 2017 and has not established that the QIT was fully funded for the months of October and November 2017, prior to her passing.¹

Based on my review of the record I concur with the Initial Decision's conclusion that Monmouth County correctly denied Petitioner's Medicaid application.

¹ The Initial Decision states that Petitioner passed away on November 17, 2017. I am troubled that Senior Planning Services (SPS) submitted a Medicaid application for Petitioner after her death, without proper authorization, on December 28, 2017. I am further troubled that SPS requested a fair hearing without disclosing Petitioner's death and submitted a Designated Authorized Representative form executed by Petitioner's daughter (POA) in May 2018. Pursuant to N.J.S.A. 46:2B-8.5(a), a durable power of attorney terminates with the death of the principal. Consequently, SPS acted without the Petitioner's authorization in filing the Medicaid application and appealing Monmouth County's decision.

THEREFORE, it is on this day of JANUARY 2019,

ORDERED:

That the Initial Decision is hereby ADOPTED.

Meghan Davey, Director

Division of Medical Assistance

and Health Services