



State of New Jersey
Department of Human Services
Division of Medical Assistance and Health Services
P.O. BOX 712
TRENTON NJ 08625-0712

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

G.S.,

PETITIONER,

v.

HUNTERDON COUNTY BOARD OF

SOCIAL SERVICES,

RESPONDENTS.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 15022-18

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. Neither Party filed Exceptions in this matter. Procedurally, the time period for the Agency Head to file a Final Agency Decision in this matter is June 9, 2019 in accordance with an Order of Extension.

The matter arises regarding the recovery of \$25,692.35 based on incorrectly paid benefits for Petitioner. Petitioner applied for and had been receiving ACA Medicaid since 2015. In March 2016, Petitioner took a part-time position that eventually became a full-time position. Petitioner did not disclose this information in response to HCBSS'

July 2016 redetermination notice or at any point thereafter. In April 2018, HCBSS reviewed Petitioner's eligibility and determined that she was no longer eligible for Medicaid benefits.¹ On July 5, 2018, Petitioner was determined disabled. As a result, Petitioner qualified for Medicaid benefits through the Workability Program effective June 2018. However, prior to this determination there is nothing in the record that indicates Petitioner was eligible to receive Medicaid benefits through the Workability Program.

Based upon my review of the record, I hereby REVERSE the Initial Decision of the Administrative Law Judge. The undisputed facts in this matter indicate that Petitioner did not qualify for Medicaid benefits for calendar year 2017 and part of 2018 due to unreported employment income. Because Petitioner did not inform Hunterdon County of the change in her income, the Medicaid program paid \$25,692.35 in capitation fees. As a result, the Division is statutorily authorized to seek reimbursement of Medicaid overpayments. Indeed, recovery in this matter is based upon N.J.S.A. 30:4D-7.i., which mandates the Division:

To take all necessary action to recover the cost of benefits incorrectly provided to . . . a recipient . . .

In reviewing this statute, it is clear that the Legislature specifically instructed the Division to recover the overpayment. However, pursuant to N.J.S.A. 30:4D-7(I), I am authorized to "compromise, waive or settle any claim under this act." The ALJ has recommended that this overpayment be waived based on the facts and circumstances of this case. I cannot agree with this based on the record, and I do not agree that the matters cited can be established precedent. Cases where the Director has used the discretion afforded to waive overpayments are based on the intrinsic facts of that

¹ Petitioner originally appealed the termination of her Medicaid benefits on May 3, 2018. She withdrew her appeal with the OAL on July 12, 2018.

particular case. While the overpayments in M.B. and K.B. v. DMAHS and Monmouth County Board of Social Services, HMA 15436-14, Initial Decision (June 29, 2015), affirmed, FAD (August 26, 2015) and M.L v. Division of Medical Assistance and Health Services and the Bergen County Board of Social Services, HMA 01381-01, Initial Decision (September 5, 2001), reversed in part and affirmed in part, FAD (November 2, 2001), were waived, the decisions were exclusively based on the facts of the case. Indeed, as the Acting Director in M.L. stated "that this Final Agency Decision is not intended to set precedent or affect any other decision I may make in the future." Thus, the instant matter should be reviewed on its own merits regarding whether a waiver should be applied.

In this matter, Petitioner failed to inform Hunterdon County that she became employed full-time. Whether or not Petitioner received the July 2016 redetermination form, she is responsible for notifying the CWA of any change in circumstances, such as a change in resources or income. N.J.A.C. 10:71-2.2(e)(3). Financial eligibility was a main determinant in Petitioner's original Medicaid application. It is implausible that Petitioner would think a change in employment, which increased her income, would not affect her eligibility and would not need to be reported. Furthermore, there is nothing in the record to suggest that Petitioner was eligible for the Workability Program. On the contrary, the record shows that Petitioner was not determined disabled until July 2018. N.J.A.C. 10:72-9.3 requires that an individual be determined disabled to be eligible to receive benefits through the Workability Program. Since Petitioner was not determined eligible until July 2018, there can be no finding that she would have received these benefits instead of the ACA benefits she had been receiving since 2015.

Thus, I find no basis to waive the overpayment. I note that this Final Agency Decision is not intended to set precedent or affect any other decision I may make in the future and is based solely on the facts presented in this case. Furthermore, Hunterdon County should enter into a payment plan with Petitioner.

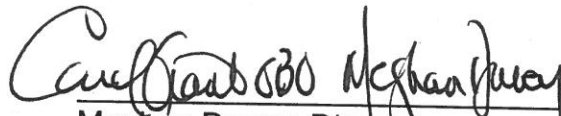
THEREFORE, it is on this 13 day of MAY 2019,

ORDERED:

That the Initial Decision is hereby REVERSED;

That Petitioner is subject to the overpayment as set forth in the August 30, 2018 letter; and

That Hunterdon County shall enter a payment plan to recoup the overpayment.


Meghan Davey, Director
Division of Medical Assistance
and Health Services