

\$66,000 to her daughter. All told her monthly income amounted to \$8,575.29. Monmouth County denied Petitioner's application for benefits as her income was sufficient to pay her medical expenses.

The federal Medicaid Act, Title XIX of the Social Security Act, 42 U.S.C.A. § 1396, et seq., provides for a joint federal-state program to provide medical assistance to individuals whose income and resources are insufficient to meet the cost of necessary medical services. 42 U.S.C.A. § 1396-1. Medicaid provides "medical assistance to the poor at the expense of the public." Estate of DeMartino v. Div. of Med. Assist. & Health Servs., 373 N.J. Super. 210, 217 (App. Div. 2004) (quoting Mistrick v. Div. of Med. Assist. & Health Servs., 154 N.J. 158, 165 (1998); citing Atkins v. Rivera, 477 U.S. 154, 156, 106 S. Ct. 2456, 2458, 91 L. Ed. 2d 131, 137 (1986)), certif. denied, 182 N.J. 425 (2005); see also 42 U.S.C.A. § 1396-1.

The Initial Decision reversed the denial finding that because Petitioner had insufficient income to pay for her assisted living facility, she was eligible for Medicaid benefits. In reaching that conclusion, "the regulations require examination of whether the petitioner's total income exceeded her total medical costs, including the 'private pay costs associated with her nursing home care and other medical expenses.'" ID at 15. I concur that this is the analysis to be done, however, Petitioner's medical costs have not been established.

Assisted living facilities are considered community placements and are available to Medicaid eligible individuals under a federal waiver that permits the expansion of services. Unlike nursing homes, individuals in an assisted living facility are responsible to pay their room and board costs. See New Jersey FamilyCare Comprehensive Waiver. https://www.state.nj.us/humanservices/dmahs/home/NJFC_1115_Amendment_Approval_Package.pdf and www.nj.gov/humanservices/doas/forms/PR-2_inst.

The nursing home cases cited in the Initial Decision simply are not analogous to this matter. Room and board costs in an assisted living facility are not considered a medical expense. As such, the portion of the cost Petitioner presented as her medical expenses that included her room and board must be teased out of the daily rate so as to determine Petitioner's medical costs. See G.T. v. DMAHS and Gloucester Board of Social Services, OAL Dkt. No. HMA 7855-12 Final Decision December 12, 2012, where the monthly room and board cost of a \$6,250 facility was determined to be \$1,491 a month. Here, the documents provided from the resident ledger show room and board billed at \$5,797 a month. That is not a medical expense and the separation of charges is required as Medicaid is prohibited from paying for housing. Her daily charges for administration of medication and for help with her activities of daily living are medical costs and amount to \$2,910 which is sufficiently covered by her income.

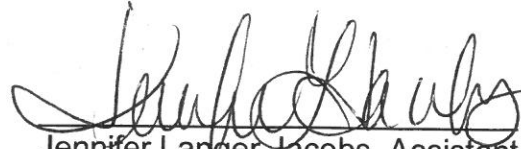
Thus, while I agree with the Initial Decision's conclusion that there needs to be examination of whether Petitioner's "total income exceeded her total medical costs", I FIND that the record does not separate Petitioner's room and board from her medical costs so as to determine the medical costs. Therefore, the matter is hereby REVERSED and REMANDED to the OAL for Petitioner to provide evidence of her room and board expenses.

THEREFORE, it is on this ^{18th} day of OCTOBER 2019,

ORDERED:

That the Initial Decision is hereby REVERSED in part; and

That the matter is REMANDED to OAL for further proceedings regarding Petitioner's room and board costs.



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