

State of New Jersey

DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES
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CAROLE JOHNSON Commissioner

JENNIFER LANGER JACOBS

Director

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

L.C.,

PHILIP D. MURPHY

Governor

SHEILA Y. OLIVER

Lt. Governor

PETITIONER,

**ADMINISTRATIVE ACTION** 

V.

FINAL AGENCY DECISION

**BURLINGTON COUNTY BOARD** 

OF SOCIAL SERVICES.

OAL DKT. NO. HMA 05314-19

RESPONDENTS.

As Director of the Division of Medical Assistance and Health Services, I have reviewed the record in this matter, consisting of the Initial Decision, the documents in evidence and the contents of the OAL case file. The Burlington County Board of Social Services (BCBSS) filed Exceptions to the Initial Decision. Procedurally, the time period for the Agency Head to render a Final Agency Decision is September 9, 2019 in accordance with N.J.S.A. 52:14B-10 which requires an Agency Head to adopt, reject or modify the Initial Decision within 45 days of the agency's receipt. The Initial Decision was received on July 25, 2019.

Based upon my review of the record, I hereby ADOPT the Initial Decision. I agree with the Administrative Law Judge (ALJ) that BCBSS should have calculated Petitioners'

income by averaging her earnings for the entire year. The Affordable Care Act regulations establish a new 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. Additionally, 42 CFR 435.603(h)(3) permits the agency to adopt "a reasonable method . . . to account for a reasonably predictable increase or decrease in future income . . . as evidenced by a clear history of predictable fluctuations in income, or other clear indicia of such future changes in income."

Petitioner is employed as a behavioral technician in a New Jersey school district, and her employment is limited to those times when school is in session. BCBSS' April 1, 2019 determination that Petitioner does not qualify for Medicaid was based upon a calculation that only took into account Petitioner's paystubs during the months she was employed. The calculation failed to take into account that Petitioner's monthly income is considerably lower during the months that she is not working. Petitioner supplied additional information in response to BCBSS' August 23, 2019 request for a letter from her employer substantiating her claims. BCBSS should consider the information available to it prior to the termination of benefits, including that information provided by Petitioner's employer, her 2018 W-2 and 2018 income tax return in order to project her income over the course of twelve months.

THEREFORE, it is on this 13th day of AUGUST 2019,

ORDERED:

That the Initial Decision reversing the termination of benefits is hereby ADOPTED.

BCBSS shall recalculate Petitioners' earnings by averaging their income over the entire year.

Jennifer Langer Jacobs, Director Division of Medical Assistance