

## State of New Jersey

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Governor

SHEILA Y. OLIVER
Lt. Governor

DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES
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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

M.S.,

PETITIONER.

V.

**ADMINISTRATIVE ACTION** 

FINAL AGENCY DECISION

OAL DKT. NO. HMA 12776-19

SUSSEX COUNTY BOARD OF SOCIAL SERVICES.

RESPONDENTS.

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 in evidence. No exceptions were filed in this matter. Procedurally, the time period for the Agency Head to file a Final Agency Decision is January 23, 2020 in accordance with an Order of Extension. The Initial Decision in this matter was received on October 24, 2019.

This matter concerns the termination of Petitioner's Medicaid benefits for income exceeding the standard for participation in the New Jersey Care, Special Medicaid

program. The undisputed evidence in the record indicates that Petitioner's monthly countable income of \$1,939 exceeds the program's \$1,041 limit for a household of one. There is simply no authority that permits the relaxation or waiver of the income limits in any individual case.

The ALJ correctly finds that Petitioner's income exceeds the limits for Medicaid eligibility. However, there is no basis for the ALJ to apply equitable estoppel to create eligibility where none exists and change the termination date from August 31, 2019 to September 30, 2019. Office of Personnel Management v. Richmond, 496 U.S. 414, 110 S. Ct. 2465, 110 L.Ed. 2d 387 (1990). The ALJ found that the denial notice was dated August 21, 2019 but was not mailed out until August 22, 2019 so that Sussex County did not give Petitioner at least 10 days notice pursuant to N.J.A.C. 10:72-5.1(a). While it may be true that the mailing fell one day short of the ten day notice, there is no dispute that Petitioner was not eligible for benefits during this period of time. Additionally, there is no harm to Petitioner as Medicaid benefits were continued pending the outcome of this fair hearing, well beyond the September 30, 2019 date chosen by the ALJ.

The ALJ also found that Petitioner was not provided with a face-to-face interview prior to termination pursuant to N.J.A.C. 10:72-2.5(a). The Affordable Care Act (ACA) enacted certain provisions to case processing that apply to both family-related NJ FamilyCare programs as well as NJ FamilyCare Aged, Blind, Disabled (ABD) programs. As a result of these changes, federal regulations do not require face-to-face interviews for individuals undergoing redetermination for eligibility. Med-Comm. 16-06.

THEREFORE, it is on this day of DECEMBER 2019,

## ORDERED:

That the Initial Decision is hereby ADOPTED in that Petitioner is ineligible for Medicaid benefits as a result of her income exceeding limits for Medicaid eligibility; and

That the Initial Decision is hereby REVERSED with regard to the ALJ's September 30, 2019 date of termination and Sussex County's termination date of August 31, 2019 is affirmed.

Jennifer Langer Jacobs, Assistant Commissioner

Division of Medical Assistance

and Health Services