



of Petitioner, her husband, and five children. R-1. On her 2017 redetermination application, Petitioner reported and provided verifications showing that her husband and her daughter, C.T., were working. Ibid. Based upon the information provided on this redetermination application, Petitioner's case was approved. Ibid.

Petitioner began working in October 2017. R-1. Petitioner alleged that she advised BCBSS of her employment and income in January 2018 and submitted a "Reporting Changes in Circumstances" form to BCBSS. P-1. She stated her New Jersey Supplemental Nutrition Assistance Program (SNAP) benefits were terminated as a result of her income effective February 1, 2018, but her Medicaid benefits continued. Ibid. BCBSS stated that the Medicaid program became aware of Petitioner's change in circumstances in May 2018, when Petitioner submitted her annual redetermination application. R-1. At that time, Petitioner reported that her husband and C.T. were no longer working, but that Petitioner was employed. Ibid. Petitioner was advised that her husband needed to file for Unemployment Insurance Benefits and provide documentation to BCBSS showing same. Ibid. Petitioner failed to provide the requested documentation, and her case was closed. Ibid.

Based upon the pay stubs that were provided with Petitioner's May 2018 redetermination application, it was determined that Petitioner monthly gross income of \$5,470.40<sup>1</sup> exceeded the income limit for her family to qualify for benefits. Ibid. As a result, BCBSS determined that Petitioner, her husband, and two of their daughters, C.T., and N.T., were ineligible for benefits for the period of December 1, 2017 through June 30, 2018 and that a total overpayment of \$13,556.86 was issued during that period.<sup>2</sup> Ibid. However, this amount appears to be incorrect,

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<sup>1</sup> BCBSS calculated Petitioner's monthly gross income based upon her gross bi-weekly pay of \$2,735.20. R-1.

<sup>2</sup> BCBSS noted that had Petitioner timely reported her change in circumstance, Petitioner, her husband, C.T., and N.T. would have been referred to the Federal Healthcare Marketplace. R-1. Additionally, Petitioner's other three children would have been transferred to the State vendor

as one of the four August 2019 letters from the Division of Medical Assistance and Health Services (DMAHS) to BCBSS incorrectly listed the Medicaid expenditures for N.T. as \$5,224.99, but in the attached spreadsheet, which sets for the expenditures per month in relation to N.T, only show a total of \$3,507.08 that was expended. R-1. Accordingly, the total amount of expended during this period of ineligibility for Petitioner, her husband, C.T., and N.T. was \$11,838.95, as noted by the Administrative Law Judge (ALJ).<sup>3</sup> See R-1 and ID at 3.

Petitioner's earned monthly income between December 1, 2017 and June 30, 2018 was calculated as \$5,470.40. R-1. The maximum monthly income for a family of seven to qualify for benefits was \$4,262 in 2017 and \$4,377 in 2018. See Medicaid Communications No. 17-03 and No. 18-01. Petitioner's income, thus, exceeded the maximum monthly income level for the months at issue, and accordingly, the modified calculation regarding the overpayment determination during the period of issue, which totaled \$11,838.95, is appropriate.

Petitioner became employed in October 2017, and sometime in January 2018, Petitioner submitted a "Reporting Changes in Circumstances" form to BCBSS, which sets forth Petitioner's bi-weekly earnings of \$2,735.20. P-1. As SNAP and Medicaid are two separate programs, it is unclear from the record whether both SNAP and Medicaid received the Petitioner's updated information. However, as a result of Petitioner submitting her change in circumstances, her SNAP benefits were terminated effective February 1, 2018. Ibid. Because Petitioner failed to timely report her change of circumstances, SNAP made an overpayment determination related to benefits Petitioner received in December 2017 and January 2018. Ibid. Likewise, even if

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to have their benefits continued. Ibid. As a result, BCBSS does not allege overpayments related to the latter three children.

<sup>3</sup> During the time period where Petitioner, her husband, C.T., and N.T. were ineligible, \$2,353.73 was expended on Petitioner, \$2,315.83 was expended on Petitioner's husband, \$3,662.31 was expended on C.T., and \$3,507.08. R-1.

Medicaid was aware of Petitioner's change in circumstances and appropriately terminated Petitioner's family's Medicaid benefits effective February 1, 2018, Petitioner's failure to timely advise Medicaid of her change in circumstances would have resulted in an overpayment determination for December 2017 and January 2018, as found by the ALJ. Accordingly, BCBSS's overpayment determination related to December 2017 and January 2018 was appropriate.

Further, N.J.S.A. 30:4D-7(i) mandates that the Division

take all necessary action to recover the cost of benefits incorrectly provided to . . . a recipient . . . No recovery action shall be initiated more than five years after an incorrect payment has been made to a recipient when the incorrect payment was due solely to an error on the part of the State or any agency, agent or subdivision thereof.

Based upon the language of this statute, it is clear that the Legislature anticipated that errors made by the State, or any agency or agent acting on its behalf, could result in recipients incorrectly receiving benefits. However, the statute only prohibited the recovery of these overpayments, which were based on an error, if more than five years have passed since the incorrectly paid benefits were provided to the recipient. Thus, even if an error causes the overpayments to occur, the County is still permitted to recover the incorrectly paid benefits for up to five years after those benefits were issued. In the present matter, the overpayments at issue occurred between December 2017 and June 2018. Therefore, even if the Medicaid program was aware of Petitioner's change in circumstances and an error occurred that resulted in Petitioner continuing to receive benefits during the period at issue, BCBSS correctly made the determination to recover the incorrectly paid benefits from Petitioner, and Petitioner is liable for the overpayments issued during the period of ineligibility.

However, N.J.S.A. 30:4D-7 permits the "compromise, waive[r] or settl[ment] . . . of any claim arising under [the New Jersey Medical Assistance and Health Services Act]." I note that this grant of authority should only be used sparingly and under conditions that present extreme

hardship. I believe those conditions are present in this matter. Specifically, the record supports a finding that Petitioner filled out and submitted a "Reporting Changes in Circumstances" form to BCBSS where she truthfully set forth her then current bi-weekly earnings. Petitioner believed that based upon this submission that both SNAP and the Medicaid program would be advised of her new income, as there is no indication on the form that her self-reported change in circumstances would not be shared with the Medicaid program. Accordingly, I FIND that due to the unique and specific facts of this matter, waiver of the overpayments for the period of February through June 2018 is appropriate. Because Petitioner failed to timely report her change in circumstance until January 2018, as set forth above, she is still liable for the overpayments issued for December 2017 and January 2018.

Accordingly, I FIND that the overpayment determination for the period of December 1, 2017 through January 31, 2018 be affirmed. I additionally FIND that the overpayment determination for the period of February 1, 2018 through June 30, 2018 be waived, pursuant to N.J.S.A. 30:4D-7, and as such, I am RETURNING this matter to the BCBSS to recalculate the amount of Petitioner's overpayment in accordance with this decision.

THEREFORE, it is on this 29th day of JULY 2021,

ORDERED:

That the Initial Decision is hereby ADOPTED;

That the overpayment determination for the period of February 1, 2018 through June 30, 2018 only is hereby WAIVED; and

That the matter is hereby RETURNED to the BCBSS to recalculate the amount of overpayment in accordance with this decision.



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