



**State of New Jersey**

DEPARTMENT OF HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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JENNIFER LANGER JACOBS  
*Assistant Commissioner*

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

**A.W.,**

**PETITIONER,**

**v.**

**DIVISION OF MEDICAL ASSISTANCE :**

**AND HEALTH SERVICES AND :**

**GLOUCESTER COUNTY BOARD OF :**

**SOCIAL SERVICES,**

**RESPONDENTS.**

**ADMINISTRATIVE ACTION**

**FINAL AGENCY DECISION**

**OAL DKT. NO. HMA 15229-2019**

As Assistant Commissioner of the Division of Medical Assistance and Health Services, I have reviewed the record in this case, including the OAL case file and the Initial Decision in this matter. Neither party filed exceptions in this matter. Procedurally, the time period for the Agency Head to file a Final Decision is February 18, 2021 in accordance with an Order of Extension.

The matter arises regarding the recovery of incorrectly paid benefits for Petitioner. Petitioner had been receiving Medicaid from August 2010 through August 2012. As a result of a new hire report, Gloucester County discovered Petitioner had

been hired as of April 1, 2012. This job was not disclosed to Gloucester County. As a result, overpayments were sought for incorrectly paid benefits Petitioner received from Medicaid as well as NJ SNAP and GA. For the judicial efficiency, the matters were heard together but two separate Initial Decisions were issued.

At the outset, I note that the findings by the ALJ with respect to the authority of Gloucester County to initiate an overpayment and recovery action. The five-year limitation on initiated a recovery action is restricted to overpayments caused solely by the error of the State or agency. See N.J.S.A. 30:4D-7.i. It was determined that it was Petitioner's failure to disclose the employment that caused the overpayment. ID at 13.

It is the contention that Petitioner was ineligible for June and July 2011 that has evidentiary problems. Gloucester County presented a report from Verify Job System (Verify) and a report of federal wage earnings filed by Petitioner's employer. Both show that Petitioner was employed, however the dates and wages don't align. The discrepancies from the Verify report make it more unreliable to set for Petitioner's wages. The face page indicates that the purpose of the report is "for employment verification along with the employee's verification of employment." R-1 at 3. It is unclear the scope and extent of their reporting on wages especially as the Verify entry that working for a major retailer Petitioner earned \$1.50 for two pay periods in July defies logic. R-1 at 5. However, Verify reported the same the gross earnings in 2011 that the employer had reported for federal tax purposes. When the Initial Decision compares the wages, since the Verify Job set Petitioner's employment dates from April to September 2011, only the 2nd and 3rd quarter federal reporting were counted

and a \$1,064.81 discrepancy was noted. ID at 8. However, Petitioner was paid exactly this amount in the 4th quarter wage report. In fact, both reports agree that that Petitioner earned \$3,310.17 from this employer in 2011. Compare R-1 at 4 with R-1 at 7, 8 and 9. Verify reported a total of \$2,115.86 in gross in bi-weekly wages from April to July. R-1 at 5. That total does not match any other gross wage it reported for Petitioner. R-1 at 4. Thus, I FIND that this particular Verify Job report to be unreliable as to wages other than at an annual level.

Using the annual amount of \$3,310.17 that is on both reports, Petitioner is ineligible for Medicaid. In 2011, the threshold was \$185 a month or \$2,220 a year. See Medicaid Communication 11-02. Thus, Petitioner's annual income exceeded the limit. However, Gloucester County is only seeking overpayment for June and July so the proofs have to support that Petitioner was under \$185 for each of those months. Because the federal wage report includes wages for the entire 2<sup>nd</sup> quarter and for three weeks of the 3<sup>rd</sup> quarter, it is impossible to tease out what income was earned in June and July from the other months. Using the amount reported to federal tax agency, Petitioner averaged \$139.31 a week. It is unknown if at least two of those weekly amounts were in July so as to cause ineligibility. All three of those weeks could have been in August 2011, a month that is not at issue here. As such, I agree that the record cannot uphold a finding that Petitioner was over income.

While the Initial Decision recommended that the overpayment be reversed and remanded for further determination on the earned income for June and July 2011, it is unclear how the income for those two months could be documented. As such, based on the unique facts and circumstances surrounding this matter, I hereby waive the

overpayment in this matter. N.J.A.C. 10:49-14.3. This decision is not intended to set precedent or affect any other decision made in the future to waive an overpayment.

THEREFORE, it is on this <sup>16th</sup> day of FEBRUARY 2021,

ORDERED:

That the Initial Decision is hereby REVERSED in so far as the remand; and

That due the unique facts and circumstances of this case, I hereby waive the overpayment.



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