



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

PO Box 712

TRENTON, NJ 08625-0712

PHILIP D. MURPHY  
Governor

SHEILA Y. OLIVER  
Lt. Governor

SARAH ADELMAN  
Acting Commissioner

JENNIFER LANGER JACOBS  
Assistant Commissioner

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

D.D.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE

AND HEALTH SERVICES AND

CUMBERLAND COUNTY BOARD OF

SOCIAL SERVICES,

RESPONDENTS.

ADMINISTRATIVE ACTION

ORDER OF RETURN

OAL DKT. NO. HMA 11618-2020

As Assistant Commissioner of 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 filed below. Petitioner filed exceptions. Procedurally, the time period for the Agency Head to file a Final Decision is August 30, 2021 in accordance with an Order of Extension.

The matter arises regarding the June 2020 application for Medicaid benefits. Petitioner had been found eligible previously in 2018. The following year Petitioner failed to provide the information to have his eligibility renewed and was terminated

effective December 31, 2019. ID at 2. A new application was filed in June 2020 which revealed that he was now divorced and that his Qualified Income Trust was being administered by Hilda Burstein as trustee. R-1. She is also his Designated Authorized Representative (DAR). In reviewing his bank accounts, three accounts were discovered. All were titled in his name with his former spouse and exceeded the \$2,000 resource limit. R-1. As a result, Cumberland County denied Petitioner's application.

At the hearing, Petitioner's ex-wife testified and produced a copy of the settlement agreement. The divorce was finalized in December 2018.<sup>1</sup> P-1. According to the property settlement, the wife would retain the joint bank accounts as well as sell or liquidate certain assets such as stocks and a recreational vehicle that would be split with Petitioner. While the assets to be sold or liquidated are identified in the settlement, the document does not identify the joint accounts. P-2. Rather the agreement simply states that Petitioner's wife shall retain all monies that are deposited in any joint accounts. The Asset Verification System shows only three accounts using Petitioner's Social Security number. Those accounts had balances between \$538.43 and \$3,755.23 between January and June 2020. There is no evidence that the monies that were present in the accounts in 2020 are the same funds that were present in the accounts in December 2018. Thus, I concur that Cumberland County properly denied the application.

---

<sup>1</sup> I note that the November 20, 2018 letter to Petitioner's previous DAR states that his wife was entitled to \$1,980.25 of his income for spousal maintenance. R-2. By that date the divorce action had been filed and was finalized in December 2018; making any allowance for the community spouse moot. It is unclear from the record when Cumberland County learned of the divorce as any reduction in the contribution of care for the now ex-wife was improper. To that end, Cumberland County should review the contribution of care calculation from January 2019 through December 2019.

While Petitioner had resources in excess of \$2,000 in June 2020, the record shows that in the three months prior to the application, he had assets below the standard. Retroactive eligibility for Medicaid allows "outstanding unpaid medical bills incurred within the three month period prior to the month of application. N.J.A.C. 10:71-2.16(a). I cannot tell from the record if Petitioner was income eligible during that time period or if other eligibility requirements were met. As such, I hereby RETURN the matter to Cumberland County so that a review of eligibility during the three months prior to June 2020 can be made and to issue a new determination letter.

THEREFORE, it is on this <sup>27th</sup> day of AUGUST 2021,

ORDERED:

That the Initial Decision is hereby ADOPTED; and

That the matter is RETURNED to Cumberland County for further action as set forth above.



---

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