



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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Governor

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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

E.W.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE

AND HEALTH SERVICES AND

ESSEX COUNTY DIVISION

OF SOCIAL SERVICES

RESPONDENTS.

ADMINISTRATIVE ACTION

ORDER OF RETURN

OAL DKT. NO. HMA 00794-2021

As Assistant Commissioner for the Division of Medical Assistance and Health Services, I have reviewed the record in this case, including the Initial Decision and the Office of Administrative Law (OAL) case file. Neither party filed exceptions in this matter. Procedurally, the time period for the Agency Head to render a Final Agency Decision is November 8, 2021 in accordance with an Order of Extension.

This matter arises from the October 2019 denial of Petitioner's Medicaid application for being over the \$2,000 resource limit to qualify for benefits. Based upon my review of the

record, I hereby ADOPT in part and REVERSE in part the findings and conclusions of the Administrative Law Judge (ALJ).

N.J.A.C. 10:71-4.5(c) states that participation in the Medicaid Only program will be denied if the resources of an individual exceed \$2,000. Resource eligibility is determined as of the first moment of the first day of the month. 20 C.F.R. § 416.1207(a) and N.J.A.C. 10:71-4.1(e). Additionally, any resource that is not specifically excluded by regulation “shall be considered a countable resource for the purpose of determining Medicaid Only eligibility.” N.J.A.C. 10:71-4.2(a).

However, when determining whether an institutionalized individual with a spouse is eligible for Medicaid benefits, applicants follow specific rules that assess the allowable resources and allowable income of the institutionalized and the community spouse. The amount of resources that the couple is permitted to retain is based on a “snapshot” of the couple’s total combined resources as of the beginning of the continuous period of institutionalization. See Mistrick v. DMAHS, 154 N.J. 158, 171 (1998); 42 U.S.C.A. § 1396r-5(c)(1)(A); and N.J.A.C. 10:71-4.8 (a)(1). Total joint resources are computed including (i) the total value of the resources to the extent either spouse has an ownership interest, and (ii) a spousal share which equals one half of the total value of the couples’ joint resources. 42 U.S.C.A. 1396r-5(c)(1)(A)(i)-(ii). The community spouse is permitted to keep the lesser of: one-half of the couple’s total resources or the maximum amount set forth in N.J.A.C. 10:71-4.8(a)(1). This is called the Community Spouse Resource Allowance (CSRA). Resources above that amount must be spent down before qualifying for benefits.

The undisputed evidence in the record indicates that at the time his Medicaid application was filed with the Essex County Board of Social Services (ECBSS) and up until his death, Petitioner, was married to J.M. J-2. It appears from the record that at the time of Petitioner’s application, ECBSS was unaware that Petitioner was married, which resulted in Petitioner’s application being denied for being over the resource limit of \$2,000. ID at 3. The

Initial Decision provides that Petitioner's marriage certificate was not presented until after Petitioner's application was denied and a fair hearing was requested in this matter. Id. at 2.

Regardless, in 2019, the CSRA had a minimum value of \$25,284 and a maximum value of \$126,420. See Medicaid Communication No. 19-03. The parties have stipulated that as of at least June 1, 2019, Petitioner and J.M.'s combined resources were far less than the minimum CSRA value of \$25,284. ID at 2. Accordingly, and for the reasons set forth in the Initial Decision and set forth above, I concur with the ALJ's determination that Petitioner's Medicaid application was erroneously denied by ECBSS for being over the resource limit of \$2,000, as ECBSS was under the mistaken belief that Petitioner was unmarried, and I ADOPT the Initial Decision to that extent. However, as the record is unclear regarding whether Petitioner has demonstrated that all aspects of eligibility have been met, I REVERSE the Initial Decision's determination that Petitioner established Medicaid eligibility as of June 1, 2019 and RETURN the matter to ECBSS to process Petitioner's application in accordance with this decision.

THEREFORE, it is on this 3rd day of NOVEMBER 2021,

ORDERED:

That the Initial Decision is hereby ADOPTED in part and REVERSED in part, as set forth above; and

That the matter is hereby RETURNED to the Essex County Board of Social Services in accordance with this decision.



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