



report earned income. Petitioner received Medicaid benefits from January 1, 2014 through July 31, 2019. ID at 2. Petitioner testified that in September 2014, she went to the Union County Board of Social Services (UCBSS), reported her income, and informed the UCBSS that she wanted to close her welfare case, including food stamps, general assistance, and Medicaid. Ibid. Petitioner stated that she did not report her income directly to the State, because she had provided it to the UCBSS. Id. at 3. Petitioner's food stamps and general assistance were terminated in September 2014. Id. at 2. However, Petitioner stated that she was advised by an unnamed UCBSS employee that her Medicaid benefits could be extended for five years as a result of a new "transition program," to which Petitioner agreed. Ibid. Petitioner testified that she did not reapply for Medicaid benefits but received a new card in the mail after September 2014, which she never used for any services. Ibid. In May 2019, Petitioner received a redetermination application from the UCBSS and, after calling the UCBSS for clarification, was told that she was ineligible for Medicaid due to her income. Id. at 3. Petitioner did not submit the redetermination application, and her Medicaid benefits were terminated in July 2019. Ibid. For the reasons sent forth below and those contained in the Initial Decision, I hereby ADOPT the ALJ's recommended decision, which concluded that UCBSS's overpayment determination in the amount of \$7,994.43 be affirmed.

Petitioner's earned monthly income was \$4,143.04 during the first quarter of 2018, \$3,399.93 for the second quarter of 2018, \$1,816.68 during the third quarter of 2018, \$2,712.95 during the fourth quarter of 2018, and \$3,997.51 during the first quarter of 2019. R-1. The maximum monthly income for eligibility was \$1,397 for 2018 and \$1,427 for 2019. See Medicaid Communication No. 18-01 and No. 19-03. The Petitioner's income, thus, exceeded the

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ineligible from January 2018 through June 2018 and July 2018 through March 2019. R-3. It was determined that Petitioner owed overpayments of \$3,005.34 for the period of January 2018 through June 2018 and \$4,989.09 for the period of July 2018 through March 2019. R-6 and R-8.

maximum monthly income level for the months at issue, and the UCBSS's calculation regarding the overpayments of premiums for the periods at issue, which totaled \$7,994.43, is appropriate.

Petitioner argues, however, that she informed the UCBSS that she wished to cancel her Medicaid benefits and instead, an unnamed UCBSS employee informed her that she qualified for a "transition program." While the unnamed employee may have provided incorrect information to Petitioner, the ALJ correctly noted that a governmental agency is not estopped from recouping incorrectly paid benefits based upon mistaken representations made by its employees or agents. ID at 4 (citing to Office of Pers. Mgmt. v. Richmond, 496 U.S. 414, 419 (1990)). 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 recover 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 January 2018 and March 2019. Therefore, even though the unnamed employee may have provided Petitioner with incorrect information regarding her eligibility, the UCBSS correctly made the determination to recovery the incorrectly paid benefits from Petitioner.

In her exceptions to the Initial Decision, Petitioner argued that a waiver, pursuant to N.J.S.A. 30:4D-7, should be provided to her because the Administrative Law Judge (ALJ) found

that the overpayment was due to misinformation that was provided by the UCBSS. However, as noted above, the alleged incorrect information provided by the unnamed employee does not prevent recovery of the overpayments. While 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]," this grant of authority should be used sparingly and under conditions that present extreme hardship. As explicitly found by the ALJ, this matter does not warrant the exercise of this authority, and I decline to waive the overpayments at issue. I, thus, FIND that the overpayment determination should be affirmed.

THEREFORE, it is on this 28th day of May 2021,

ORDERED:

That the Initial Decision is hereby ADOPTED.



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