



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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

J.N.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE

AND HEALTH SERVICES AND

MONMOUTH COUNTY DIVISION

OF SOCIAL SERVICES

RESPONDENTS.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 00383-2021

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. Petitioner filed exceptions in this matter. Procedurally, the time period for the Agency Head to render a Final Agency Decision is July 8, 2021 in accordance with an Order of Extension.

This matter arises from the November 23, 2020 denial of Petitioner's Medicaid application for being over the resource limit to qualify for benefits. Based upon my review of

the record, I hereby ADOPT 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). Moreover, income is only considered "income" in the month it is received. N.J.A.C. 10:71-5.2(b)1. The unspent income in the following month counts towards resources. N.J.A.C. 10:71-4.1(c). See Supplemental Security Income (SSI) guidance, namely Program Operations Manual System (POMS), SI 00810.010 Relationship of Income to Resources (providing "In general, anything received in a month, from any source, is income to an individual, subject to the definition of income for SSI purposes in that is Income SI 00810.005. Anything the individual owned prior to the month under consideration is subject to the resource counting rules. An item [that an individual] receive[s] in the current month is income for the current month only. (See exceptions to this general rule in SI 00810.030.) If held by the individual until the following month, that item is subject to resource-counting rules. (See exception in SI 01110.100 - SI 01110.115.)"). See also 42 U.S.C.A. 1382a; 20 C.F.R. §§ 416.1111 and 416.1123.

The undisputed evidence in the record indicates that Petitioner, through his Designated Authorized Representative (DAR), submitted an application for Medicaid benefits on September 30, 2020, seeking a September 1, 2020 eligibility date. However, as of September 1, 2020, Petitioner's personal needs allowance (PNA) account showed a balance of \$3,434.11. Based upon the bank statement provided in this matter, Petitioner's Social Security payment of \$858.30 was being deposited into Petitioner's PNA account each month. P-1. However, no payments to the nursing facility where Petitioner resides were made for

several months, resulting in the account balance as of September 1, 2020.¹ P-1 and P-5. On September 1, 2020, an electronic funds transfer of \$3,233.20 was initiated to pay the balance of charges Petitioner was accruing at the nursing facility. P-1. After the transfer, a balance of \$200.91 remained in the account. Ibid. Because the monthly payments to the nursing facility were not timely transferred, each of Petitioner's monthly Social Security deposits of \$858.30 that remained in his PNA account after the month in which the deposits were made are considered resources, pursuant to N.J.A.C. 10:71-4.1(c). Accordingly, Petitioner's PNA account balance exceeded the \$2,000 resource limit to qualify for benefits as of the first moment of the first day of September, the month in which eligibility was sought, regardless of the fact that the nursing facility electronically transferred the accrued amount later that same day. MCDSS correctly determined that Petitioner was not resource eligible for September 2020.

While the DAR submitted a letter from the nursing facility, which alleged that the payments were not deducted because there were difficulties verifying the amount of the deposits with the bank, the ALJ correctly noted that this letter is hearsay. While hearsay evidence shall be admissible during contested cases before the OAL some legally competent evidence must exist to support each ultimate finding of fact to an extent sufficient to provide assurances of reliability and to avoid the fact or appearance of arbitrariness. N.J.A.C. 1:1-15.5(b). The finding of fact cannot be supported by hearsay alone. Rather, it must be supported by a residuum of legal and competent evidence. Weston v. State, 60 N.J. 36, 51 (1972). No documentation was provided to show that such an error existed, and as noted by the ALJ, the contents of the letter are contradictory. Specifically, the letter provides that that the error was not corrected until September 15, 2020; however the electronic funds

¹ It appears from the bank statement and resident statement that Petitioner was being charged approximately \$808.30 per month for the cost-share for his room and was given \$50 per month for his PNA. P-1 and P-5. However, no withdrawals related to the room charges occurred for at least four months, between May and August 2020 resulting in the \$3,343.11 account balance on September 1, 2020. Ibid.

transfer was initiated on September 1, 2020 for the exact amount of Petitioner's cost-share for room. R-1. Moreover, the letter provides that the alleged difficulties began in July 2020, with the first telephone call to the bank occurring on July 30, 2020. However, by that time, Petitioner's May, June, and July 2020 Social Security payments were already deposited into the PNA account, and no transfers were made to pay for his cost-share for those months until September 2020. Ibid. Accordingly, the nursing facility's letter alone, without the presentation of legally competent evidence to support its assertions, cannot support a finding that the nursing facility was prevented from transferring Petitioner's monthly cost-share prior to September 1, 2020.

I note that in his exceptions, the Petitioner argues that he should have been provided with October 1, 2020 eligibility, as he was resource eligible at that date, rather than having his application denied by the Monmouth County Division of Social Services (MCDSS). However, I take administrative notice that Petitioner subsequently reapplied for benefits and was granted eligibility by MCDSS as of December 1, 2020 with two months of retroactive coverage for October and November 2020. Accordingly, Petitioner has received coverage for the months in which he was resource eligible and his argument that the denial should be reversed and Petitioner be provided with an October 1, 2020 eligibility date is moot.

Thus, for the reasons set forth in the Initial Decision and set forth above, I hereby ADOPT the Initial Decision in this matter.

THEREFORE, it is on this 1st day of JULY 2021,

ORDERED:

That the Initial Decision is hereby ADOPTED.



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