



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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Assistant Commissioner

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

N.W.,	:	
	:	
PETITIONER,	:	ADMINISTRATIVE ACTION
	:	
v.	:	FINAL AGENCY DECISION
	:	
ESSEX COUNTY DIVISION OF	:	
FAMILY ASSISTANCE AND BENEFITS:	:	OAL DKT. NO. HMA 07266-21
	:	
RESPONDENTS.	:	

As Assistant Commissioner for the Division of Medical Assistance and Health Services, I have reviewed the record in this case, including the Initial Decision, the Office of Administrative Law (OAL) case file, the documents filed below. Both parties filed exceptions. Procedurally, the time period for the Agency Head to file a Final Agency Decision in this matter is November 5, 2021 in accordance with N.J.S.A. 52:14B-10, which requires an Agency Head to adopt, reject or modify the Initial Decision within 45 days of the agency's receipt. The Initial Decision was received on September 21, 2021.

This matter arises from the Essex County Division of Family Assistance (Essex County) August 18, 2021 denial of Petitioner's Medicaid application because her resources exceeded the \$2,000 limit pursuant to N.J.A.C. 10:71-4.5. Participation in the Medicaid

program will be denied if the resources of an individual exceed \$2000 as of the first moment of the first day of the month. See N.J.A.C. 10:71-4.5. A “resource” is defined as “any real or personal property which is owned by the applicant . . . and which could be converted to cash to be used for his/her support and maintenance.” See 20 C.F.R. § 416.1201(a) and N.J.A.C. 10:71-4.1(b). If the individual has the right, authority or power to liquidate the property, it is considered a resource. Ibid. A resource is “countable” for purposes of eligibility determinations if it is “available to the applicant/beneficiary or any person acting on his or her behalf.” N.J.A.C. 10:71-4.1(c)(3) (emphasis added).

Petitioner and her daughter have two joint accounts, one checking and one savings, totaling \$5,816.90. The Appellate Court has stated that “joint accounts are sometimes used as ‘convenience accounts,’ so that another party may more easily handle the financial affairs of the true owner of the asset.” Bronson v. Bronson, 218 N.J.Super. 389, 394 (App.Div.1987). Indeed, under the Multiple-Party Deposit Account Act (MPDA), while the parties are alive:

Unless a contrary intent is manifested by the terms of the contract, or the deposit agreement, or there is other clear and convincing evidence of a different intent at the time the account is created:

a. A joint account belongs, during the lifetime of all parties, to the parties in proportion to the net contributions by each to the sums on deposit. In the absence of proof of net contributions, the account belongs in equal shares to all parties having present right of withdrawal. This subsection shall not be construed to affect the right of the court to effectuate an equitable distribution of property between the parties in an action for divorce pursuant to N.J.S. 2A:34-23.

N.J.S.A. 17:16I-4.

As the law above shows and absent any evidence from the financial institutions, Petitioner would have had unrestricted access to the funds and the account is considered her asset. See also POMS SI 01140.205 “When a claimant or recipient co-owns an account with someone who is not eligible for SSI benefits, we assume that all the funds in the account belong to the SSI claimant or recipient.” The burden of proof is on the individual to support her claim of eligibility for Medicaid. Petitioner did not testify at the telephonic hearing and

provided no evidence that the monies in the joint checking or savings account held with H.W. were not available to her.¹ If this is a convenience account, such that H.W. can make payments on her mother's behalf, there is no testimony or documentary evidence regarding which transactions were made by the Petitioner or on the Petitioner's behalf.² Rather, it appears that Petitioner and her mother share a residence, and all income placed into the accounts is used to "cover[s] their expenses." ID at 2. Consequently, I agree with the Administrative Law Judge that the Petitioner has failed to prove that the Petitioner did not have access to the funds in the jointly held accounts, and that the accounts in question have resources that exceed \$2,000.

The undisputed evidence in the record indicates that at all times relevant to the processing of Petitioner's Medicaid application her available resources exceeded the limit. The eligibility procedure is clearly set forth in the regulations and there is simply no provision which permits a relaxation of the eligibility date so long as the countable resources exceed the maximum limit.

THEREFORE, it is on this 4th day of NOVEMBER 2021,

ORDERED:

That the Initial Decision is hereby ADOPTED.

Carol Grant OBO Jennifer Langer
Jacobs

Digitally signed by Carol Grant OBO Jennifer
Langer Jacobs
Date: 2021.11.04 13:58:50 -04'00'

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

¹ H.W. testified to the joint checking account but provided no information regarding the source of the funds in the savings account.

² The June-July 2021 checking account statements show more than 100 transactions at multiple physical and online locations, as well as, a \$2,000 transfer from the jointly held savings account.