



State of New Jersey

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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**

T.F.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE

AND HEALTH SERVICES AND

ATLANTIC COUNTY DEPARTMENT

OF FAMILY AND COMMUNITY

DEVELOPMENT

RESPONDENTS.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 02557-2021

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 August 16, 2021 in accordance with an Order of Extension.

This matter arises from the March 2021 denial of Petitioner's Medicaid application for being over the resource limit to qualify for benefits. During the verification process of

Petitioner's December 2020 application for Medicaid benefits, the Atlantic County Department of Family and Community Development (Atlantic County) discovered, through an asset verification search, that in addition to one active TD Bank account that was solely-owned by Petitioner, Petitioner co-owned two other TD Bank accounts with her granddaughter, M.F. One of these accounts is labeled as "TD Student Checking" and the other is labeled "TD Simple Savings." P-2 and P-3. Atlantic County additionally determined that the total, combined amount in these three bank accounts exceeded the \$2,000 resource limit to qualify for benefits during the months of January and February 2021.¹ Specifically, in January 2021, Petitioner's solely-owned bank account contained a balance of \$1,161.01, and the two bank accounts that she owned with M.F. contained a balance of \$3,900.69 and \$1,526.02, respectively, for a total, combined balance of \$6,587.72 between the three accounts. R-1. In February 2021, Petitioner's solely-owned bank account contained a balance of \$803.11, and the two bank accounts that she owned with M.F. contained a balance of \$4,273.79 and \$1,526.04, respectively, for a total, combined balance of \$6,602.94 for February 2021. Ibid. Accordingly, Atlantic County denied Petitioner's Medicaid application for being over resources through a letter dated March 4, 2021.

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. 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

¹ The TD Bank account that was solely owned by Petitioner exceeded the \$2,000 resource limit for December 2020. Specifically, that bank account had a total balance of \$3,625.82. R-1. As the issue in this matter relates to the two bank accounts that she jointly owned with M.F., it does not appear that Petitioner is contesting Atlantic County's assessment that Petitioner was over the resource limit to qualify for benefits in December 2020. Accordingly, the only months at issue in this matter are January and February 2021.

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. Moreover, "[w]hen a savings or checking account is held by the eligible individual with other parties, all funds in the account are resources to the individual, so long as he or she has unrestricted access to the funds (that is, an "or" account) regardless of their source." N.J.A.C. 10:71-4.1(d)2. However,

[w]hen the individual's access to the account is restricted (that is, an "and" account), the CWA shall consider a pro rata share of the account toward the appropriate resource maximum, unless the client and the other owner demonstrate that actual ownership of the funds is in a different proportion. If it can be demonstrated that the funds are totally inaccessible to the client, such funds shall not be counted toward the resource maximum."

Ibid.

While M.F. confirmed that Petitioner was a co-owner of both accounts and remained so until M.F. closed those accounts and opened new accounts solely in her name, M.F. asserted that the funds deposited in the joint account labeled "TD Student Checking" were solely from her two employers and the funds therein did not belong to Petitioner. Id. at 3-4. As noted above, all funds in a joint account are deemed to be assets of the applicant, regardless of their source, as long as the applicant maintained unrestrictive access to the funds in the account. N.J.A.C. 10:71-4.1(d). While there is nothing in the record to reflect that Petitioner did not have the right, authority, or power to use either of joint accounts in question, the one joint account was labeled "TD Student Checking," which was opened with Petitioner as a result of M.F. being a minor at that time. As there is no evidence showing that Petitioner used the TD Student Checking account while it was open, and the documentary evidence in the record supports M.F.'s testimony that the only funds deposited into the same accounts resulted from her paychecks from at least one of her employers, I am inclined to agree with Petitioner's contention that the TD Student Checking account was created to be used for M.F.'s sole purposes. Accordingly, I REVERSE the ALJ's

determination that the funds contained in the TD Student Checking account were properly included in the calculation of Petitioner's resources.

However, the record is devoid of any testimony or documentation that discusses the sources of funding of the second joint bank account labeled "TD Simple Savings."² The TD Simple Savings account was only discussed by M.F. in relation to a \$1,000 phone transfer that Petitioner made into the TD Simple Savings account from her personal account on September 24, 2020 and which Petitioner subsequently transferred back into her personal account three weeks later on October 16, 2020. Id. at 4. No further testimony or documentation regarding the sources of the other deposits made into the account was provided, and the deposits do not correspond with any activity set forth on the TD Student Checking account statements. P-2 and P-3. Regardless of Petitioner's assertion in her exceptions that the funds in both accounts belonged solely to M.F., Petitioner failed to establish through credible documentary evidence that the TD Simple Savings account was solely comprised of funding supplied by M.F. and was for M.F.'s sole use. Moreover, as Petitioner was able to transfer funds to and from this account without M.F.'s permission, Petitioner, therefore, demonstrated that she maintained the ability and authority to use the TD Simple Savings account as the joint owner of the account. Petitioner, thus, had unrestricted access to the TD Simple Savings account, and pursuant to N.J.A.C. 10:71-

² I note that Petitioner's exceptions asserted that "the ALJ found M.F.'s testimony credible in that the deposits made into the subject bank accounts stemmed from income she earned through waitressing and her employment . . . Accordingly, . . . DMAHS cannot question M.F.'s credibility and must also accept as fact that the deposits stemmed from M.F.'s income." However, this assertion is incorrect. Specifically, N.J.A.C. 1:1-18.6(c) provides that an agency head may not reject or modify any finding of fact as to issues of credibility of lay witness testimony unless it first determines from a review of the record that the findings are arbitrary, capricious or unreasonable, or are not supported by sufficient, competent, and credible evidence in the record." Further, in the present matter, no testimony or documentary evidence was proffered regarding the funding of the joint account labeled "TD Simple Savings." Therefore, contrary to Petitioner's contentions, the ALJ's determination that M.F. testified credibly does not require that I accept as fact that M.F. funded both of the joint accounts in question through funds obtained from her two employers, as the ALJ made no such findings regarding the funding for TD Simple Savings account deposits.

4.1(d), the funds in that account were properly included in the calculation of Petitioner's resources. Petitioner has failed to show any reason why the TD Simple Savings account should not be considered as a resource.

Even after excluding the balance contained in the TD Student Checking account, the balance contained in the TD Simple Savings account combined with Petitioner's personal TD Bank account exceeded the \$2,000 resource limit to qualify for benefits for the months of January and February 2021. Specifically, for January 2021, Petitioner's personal TD Bank account balance was \$1,161.01 and the TD Simple Savings account balance was \$1,526.02, for a total, combined balance of \$2,687.03; and for February 2021, Petitioner's personal account balance was \$803.11 and the TD Simple Savings account's balance was \$1,526.04, for a total, combined balance of \$2,329.15. P-3 and R-1.

Accordingly, for the reasons set forth in the Initial Decision and set forth above, I hereby REVERSE the Initial Decision as it relates to the inclusion of the funds contained in the joint bank account labeled "TD Student Checking" in the calculation of Petitioner's resources and ADOPT the Initial Decision as it relates to the finding that the funds contained in the joint bank account labeled "TD Simple Savings" were properly included in the calculation of Petitioner's resources. Additionally, I hereby ADOPT the Initial Decision as it relates to the determination that Petitioner's combined resources exceeded the \$2,000 maximum resource limit to qualify for benefits and her application was appropriately denied.

THEREFORE, it is on this 13th day of AUGUST 2021,

ORDERED:

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



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