



**State of New Jersey**  
OFFICE OF ADMINISTRATIVE LAW

**INITIAL DECISION**

OAL DKT. NO. HMA 09667-25

**E.F.,**

Petitioner,

v.

**SUSSEX COUNTY BOARD OF  
SOCIAL SERVICES,**

Respondent.

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**M.M.**, for petitioner pursuant to N.J.A.C. 1:10B-5.1

**Tina Adamsky**, Human Services Specialist III, for respondent, appearing pursuant  
to N.J.A.C. 1:1-5.4(a)3

Record Closed: July 30, 2025

Decided: August 5, 2025

BEFORE **LESLIE Z. CELENTANO**, (Ret., on recall):

**STATEMENT OF THE CASE AND PROCEDURAL HISTORY**

Petitioner appeals the termination of Medicaid NJ FamilyCare (FamilyCare) benefits by respondent, the Sussex County Division of Social Services (CWA) on the basis that petitioner's income exceeded the allowance limit. The CWA advised petitioner of the termination of benefits on November 14, 2024. Petitioner timely filed for a fair hearing on the denial.

The Division of Medical Assistance and Health Services (DMAHS) transmitted the matter to the Office of Administrative Law (OAL) where it was received on May 27, 2025. The fair hearing was scheduled and commenced on July 21, 2025. As there was no dispute as to petitioner's income, and the issues raised on her behalf involved a question of law, the parties agreed to make supplemental submissions, and the record closed on July 30, 2025, following receipt of submissions by both parties.

### **Issue Presented**

Did the Division properly terminate E.F.'s NJ FamilyCare benefits based on its determination that her monthly income exceeded the limit?

### **FACTUAL DISCUSSION AND FINDING OF FACTS**

Based on the evidence presented at the hearing and subsequent thereto, I **FIND** the following as **FACT** herein:

Appellant E.F. has been a recipient of NJ FamilyCare benefits through the NJ FamilyCare Aged, Blind, Disabled Programs. These programs provide health care services to people on Medicaid. In 2024, the income limit to receive these benefits was \$1,255 per month.

On November 14, 2024, the agency reviewed documentation received on November 12, 2024, from E.F. in response to the agency's November 5, 2024, request for additional documentation (R-2) to complete a redetermination for NJ Family Care benefits. E.F. had provided a letter indicating she had paid no rent or utilities costs (R-3). The agency thus applied an in-kind support and maintenance amount of \$334.33 to E.F.'s income.

In 2024, E.F. received \$978 a month in social security benefits, lived with her daughter and son-in-law, and while she did not pay rent or contribute to utilities, she spent approximately \$400 a month on food. The CWA determined that, based on the housing

and utilities provided by her daughter and her son-in-law, she received \$334.33 a month in in-kind support and maintenance. Deducting a \$20 "disregard," this put her total countable income at \$1,292.33 per month. In November 2024 the Division terminated E.F.'s NJ FamilyCare benefits because her monthly income exceeded the program income limit of \$1,255.00 a month. The agency sent a termination letter to E.F. on November 14, 2024, effective November 30, 2024. E.F. appealed the termination.

M.M. did not dispute E.F.'s income level shown by respondent and that it exceeded the Federal Income level for 2024 of \$1,255 per month for NJ Family Care medical coverage. Petitioner did not provide any information documenting an incorrect analysis by respondent.

### **LEGAL ANALYSIS**

The New Jersey Department of Human Services (DMAHS) set the income cap for recipients of NJ FamilyCare special Medicaid programs at \$1,255 per month. (R-5.) The Division calculates income as including, in relevant part, social security benefits plus any in-kind support and maintenance. Individuals who receive in-kind support and maintenance are considered to have an additional income of \$334.22 a month on top of their monthly Medicaid payments. (Medicaid Communication 24-01 at 3. )

Federal regulations calculate in-kind support and maintenance as "any shelter that is given to you or that you receive because someone else pays for it" including "room, rent, mortgage payments, real property taxes, heating fuel, gas, electricity, water, sewerage, and garbage collection services." 20 C.F.R. 416.1130(b)(1). New Jersey law defines in-kind support and maintenance as "the provision to an individual of his or her needs for food, clothing, and shelter at no cost or reduced value." N.J.A.C. 10:71-5.4(a)(12). However, as of March 27, 2024, in order to comply with federal Medicaid regulations, the Division no longer considers food expenses in determining in-kind support and maintenance calculations. (R-1, citing Federal Register Vol. 89, No. 60. )

E.F. argues that the \$400 a month she spends on food should be included as an expense because 20 C.F.R. 416.1130(b)(1) pertains to Supplemental Security Income,

which she does not receive. Therefore, she contends, the state regulations should apply, and food should be considered an expense.

E.F.'s argument is inapplicable here. The state regulations define in-kind support and maintenance as "the provision to an individual of his or her needs." N.J.A.C. 10:71-5.4(a)(12). The federal regulations define in-kind support and maintenance as shelter that "is given to you or that you receive because someone else pays for it." 20 C.F.R. 416.1130(b)(1). Therefore, it is not necessary at this juncture to determine whether or not the CWA and DMAHS should count food expenses in in-kind support and maintenance calculations because E.F.'s daughter and son-in-law are not providing her with food. In short, under the relevant regulations cited to by the parties, E.F.'s personal expenses do not matter in calculating her monthly income.

### **CONCLUSION**

Based upon the foregoing, I **CONCLUDE** that the CWA's calculation of E.F.'s monthly income is correct and in accordance with the relevant regulations and DMAHS standards. Her monthly social security check is \$978 and, because she receives rent and utilities for free, she has additional in-kind income of \$334.33 a month. This totals \$1,312.33 a month. Subtracting \$20 for what the Division calls "disregard," this puts her total income \$1,292.33 a month. This exceeds the \$1,255 per month maximum income to qualify for NJ FamilyCare special Medicaid programs. Therefore, I **CONCLUDE** that the CWA properly followed state regulations and DMAHS standards and its termination of E.F.'s NJ FamilyCare benefits should be affirmed.

### **ORDER**

Based on the foregoing, it is **ORDERED** that the termination of petitioner's renewal/redetermination for New Jersey FamilyCare Benefits be and hereby is **AFFIRMED**.

I **FILE** this initial decision with the **ASSISTANT COMMISSIONER OF THE DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES**. This recommended decision is deemed adopted as the final agency decision under 42 U.S.C. §

1396a(e)(14)(A) and N.J.S.A. 52:14B-10(f). The **ASSISTANT COMMISSIONER OF THE DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES** cannot reject or modify this decision.

If you disagree with this decision, you have the right to seek judicial review under New Jersey Court Rule 2:2-3 by the Appellate Division, Superior Court of New Jersey, Richard J. Hughes Complex, PO Box 006, Trenton, New Jersey 08625. A request for judicial review must be made within 45 days from the date you receive this decision. If you have any questions about an appeal to the Appellate Division, you may call (609) 815-2950.

August 5, 2025

DATE



LESLIE Z. CELENTANO, ALJ (Ret., on recall)

Date Received at Agency:

August 5, 2025

Date Mailed to Parties:

August 5, 2025

dr

**APPENDIX**

**Witnesses**

For Petitioner:

M.M., petitioner's daughter

For Respondent:

Tina Adamsky, Human Services Specialist III

**Exhibits**

For Petitioner:

P-1 E.F.'s letter dated July 23, 2025

For Respondent:

R-1 Hearing summary

R-2 Agency's request for additional information dated November 5, 2024

R-3 E.F.'s letter to agency dated November 8, 2024

R-4 E.F. eligibility worksheet

R-5 DMAHS income standards dated January 1, 2024

R-6 Termination letter dated November 14, 2024