

the Initial Decision within 45 days of the agency's receipt. The Initial Decision was received on July 14, 2014.

Based upon my review of the record, I hereby ADOPT the Initial Decision with clarification. The Affordable Care Act regulations establish a new method for counting income based upon an applicant's modified adjusted gross income (MAGI). The countable income for MAGI is gross income according to the Internal Revenue Service Code. See 42 CFR 435.603. Additionally, 42 CFR 435.603(h)(3) permits the agency to adopt "a reasonable method . . . to account for a reasonably predictable increase or decrease in future income . . . as evidenced by a clear history of predictable fluctuations in income, or other clear indicia of such future changes in income."

Petitioner has seasonal employment from April 15th through October 15th. During the six months she is not working, she receives unemployment benefits. The County's determination that Petitioner does not qualify for Medicaid was based upon the County's calculation that only took into account her seasonal employment earnings of \$350 per week. However, the County's determination fails to take into account that her monthly income is considerably lower during the six months that she is not working and only receiving \$210 per week in unemployment benefits. Petitioner has been a seasonal employee for many years and thus has a "clear history of predictable fluctuations in income." 42 CFR 435.603(h)(3). Thus, I agree with the ALJ that the County should have averaged her income over a 12-month period. In so doing, Petitioner's gross income of \$15,454.00 (\$9800 in earnings plus \$5654 from unemployment) divided by twelve months results in an average monthly income of \$1287.83, which is less than the NJ FamilyCare monthly eligibility limit of \$1294.00.

THEREFORE, it is on this 5th day of August 2014,

ORDERED:

That the Initial Decision reversing the denial of benefits is hereby
ADOPTED as the Final Decision in this matter.



Valerie J. Harr, Director
Division of Medical Assistance
and Health Services