
In the Matter of

R.M.

RECOMMENDED DECISION

Petitioner R.M. appeals the Division of Developmental Disabilities' (Division) decision that he is not eligible for Division services because he is not Medicaid eligible. Petitioner, via his guardian G.M., requested this administrative review following the informal conference pursuant to N.J.A.C. 10:48-4.2.

The following items were reviewed in preparing this Recommended Decision:

- 1) Division file for R.M;
- 2) Informal Conference Report dated September 13, 2017; and
- 3) applicable statutes and regulations.

FACTS AND PROCEDURAL HISTORY

Petitioner R.M. is thirty-seven years old and began receiving Division services in December 2001. R.M. resides in a Division-funded group home. R.M. is not Medicaid eligible. The Division adopted new eligibility regulations, N.J.A.C. 10:46, in 2013 which require individuals to be Medicaid eligible to receive services.¹ The Division informed Petitioner's guardian G.M. via letter several times² from 2013 through 2017 that Medicaid is required to receive Division services. The Division also verbally discussed this issue with G.M. at R.M.'s annual Individual Habilitation Plan meetings from 2013 through 2016. The Division advised G.M. via letter dated May 4, 2017 that R.M.'s Division services would be terminated because he is not Medicaid eligible.³

¹ N.J.A.C. 10:46-1.2 states "The provisions of this chapter shall apply to all individuals applying to the Division for eligibility under N.J.S.A. 30:4-25.1 et seq. and 30:4-165.1 et seq. Individuals under the age of 21, individuals who do not meet functional eligibility criteria, and individuals who are not Medicaid eligible, are not eligible to receive Division services..." (Emphasis added.)

² Division letters were sent on the following dates: February 2, 2013; May 11, 2015; April 19, 2016; and May 4, 2017.

³ R.M. continues to receive Division-funded services during the pendency of the administrative appeal.

Petitioner objects to the Division's decision that R.M. is not eligible for Division services due to lack of Medicaid eligibility. An informal conference was held on August 17, 2017. A settlement was not reached and the community services administrative practice officer issued an informal conference report finding the Division staff correctly applied N.J.A.C. 10:46-1.2 in terminating R.M.'s eligibility for Division-funded services. Petitioner continued the appeal by letter dated October 6, 2017.

DISCUSSION

Individuals must be Medicaid eligible to receive Division services pursuant to N.J.A.C. 10:46-1.2, which states "[i]ndividuals who are not Medicaid eligible, are not eligible to receive Division services...." The regulation is plain and unambiguous. Petitioner received multiple notices, verbally and via letter, from 2013 through 2017, advising that Medicaid is required to receive Division services. Petitioner does not assert that he is Medicaid eligible.

Petitioner asserts that a special needs trust (SNT)⁴ is in process, and once this is completed, R.M. will be Medicaid eligible.⁵ However, Petitioner has not completed the SNT process, and remains ineligible for Medicaid. Therefore, Petitioner is not eligible for Division services. Should R.M. become Medicaid eligible in the future and wish to receive Division services, he may contact his local Community Services Office.

⁴ See 42 U.S.C. 1396p(d)(4)(A). A special needs trust (SNT) allows an individual to have assets and qualify for government benefits.

⁵ R.M. is currently not Medicaid eligible because he has a large asset balance due to a medical malpractice settlement.

CONCLUSION

For the foregoing reasons, I hereby find that the Division's determination that R.M. is not eligible for Division services was proper.

This is my Recommended Decision.

Dated: 1/25/18


Dana D. Griffin
Administrative Review Officer
Division of Developmental Disabilities