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

G.B.,	:	
	:	
PETITIONER,	:	ADMINISTRATIVE ACTION
	:	
v.	:	FINAL AGENCY DECISION
	:	
OCEAN COUNTY BOARD	:	OAL DKT. No. HMA 04752-2023
	:	
OF SOCIAL SERVICES,	:	
	:	
RESPONDENT.	:	

As Assistant Commissioner for the Division of Medical Assistance and Health Services (DMAHS), I have reviewed the record in this case, including the Initial Decision and the Office of Administrative Law (OAL) case file. Neither party filed exceptions in this matter. Procedurally, the time period for the Agency Head to render a Final Agency Decision is March 21, 2024 in accordance with an Order of Extension.

This matter arises from issues regarding the "snapshot" date of June 2022 used by Ocean County Board of Social Services' (OCBSS) to evaluate Petitioner's resources for compliance with Medicaid eligibility, and its denial for Petitioner's failure to provide requested documentation within the allotted timeframe.

By way of background, Petitioner was admitted to Complete Care at Bey Lea on September 3, 2021. Petitioner was first admitted to the assisted living facility and later transferred to the nursing facility. On February 22, 2023, Petitioner completed a Medicaid application, but was not clinically approved until June 15, 2022, the day the pre-admission application (PAS) was completed.¹ R-4. OCBSS completed its resource assessment using the June 2022 snapshot date and Petitioner's Medicaid application was denied on May 12, 2023 because the combined resources of Petitioner and his spouse exceeded the standard. R-2. See also N.J.A.C. 10:71-4.1.

Petitioner contends that the snapshot date should be October 1, 2021 because he entered the assisted living facility in September 2021. Petitioner's Letter Brief p. 2. Respondent disagrees, and contends it was required to use the June 2022 snapshot date since that is the date the PAS was performed which established clinical eligibility. Services provided in an assisted living facility are not considered to be institutional. Federal law requires that States provide institutional nursing home services. See 42 USCA § 1396a(a)(10). Assisted living services are not required services, but can be provided under a home and community based waiver either under 1915(c) or 1115. See Medicaid Assisted Living Services, Government Accountability Report (GAO) <https://www.gao.gov/assets/690/689302.pdf>. A continuous period of institutionalization is determined by admission to a Title XIX facility for a period of 30 consecutive days. N.J.A.C. 10:71-4.8(a). See also 42 1396r-5(h)(1). Petitioner's snapshot occurred in June

¹ This is Petitioner's second application. The first application was filed on October 28, 2022 and was denied for failure to provide information and over resources.

2022 when he was deemed clinically eligible for the level of care provided in a nursing home.

The Initial Decision concluded that the proper snapshot date was June 2022. The Initial Decision also concluded that Petitioner could not be considered “institutionalized” until the PAS had been completed. Two recent cases cited in the Initial Decision are specific to the snapshot issue presented in this matter. The first case, S.W. v. Cumberland County Board of Social Services, HMA 99815-20, final decision, (June 4, 2020), https://njlaw.rutgers.edu/collections/oal/final/hma00815-20_2.pdf determined the snapshot date does not hinge on when an applicant enters a Title XIX facility. Rather, is it the date of the PAS that an individual can be considered institutionalized for Medicaid purposes. The second case, H.H. v. Burlington County Board of Social Services, HMA 4848-2019, final decision (Dec. 27, 2019), https://njlaw.rutgers.edu/collections/oal/final/hma04848-19_1.pdf, determined that the snapshot date is the date the PAS is performed. Accordingly, I FIND that OCBSS was correct to use the June 2022 date when determining Petitioner’s resources.

In addition to establishing clinical eligibility, the Medicaid applicant must meet the requirements for financial eligibility. When determining whether an institutionalized individual with a spouse is eligible for Medicaid benefits, applicants follow specific rules that assess the allowable resources and allowable income of the institutionalized and the community spouse. The amount of resources that the couple is permitted to retain is based on a snapshot of the couple’s total combined resources as of the beginning of the continuous period of institutionalization. See Mistrick v. DMAHS and PCBOSS, 154 N.J. 158, 171 (1998); 42 U.S.C.A. § 1396r-5(c)(1)(A); N.J.A.C. 10:71-4.8(a)(1). The

community spouse is permitted to keep the lesser of: one-half of the couple's total resources or the maximum amount set forth in N.J.A.C. 10:71-4.8(a)(1). This is called the Community Spouse Resource Allowance (CSRA). Resources above that amount must be spent down before qualifying for benefits.

A review of Petitioner's combined resources as of the snapshot date shows the following assets: 1) Wells Fargo account # 0864 for \$40.96, 2) Wells Fargo account #3421 for \$12.49, 3) Wells Fargo account # 6288 for \$51,764.32, 4) Wells Fargo account #6360 for \$7,644.52, 5) Lincoln life insurance \$12,718.46 and 6) Prudential life insurance \$14,267.00 totaling \$86,447.75. R-3. In June 2022, OCBSS informed Petitioner that he would be eligible for Medicaid when the total combined resources were equal to \$45,223.87, and that the combined resources had to be reduced before the first moment of the first day of the month to establish eligibility. R-4. Here, although Petitioner believes the snapshot date should be October 1, 2021, he is not seeking eligibility dating back to March 2023, the date resources were spent down. Petitioner's Letter Brief p. 4. Instead, Petitioner seeks to establish eligibility in May 2023.² Ibid.

I agree with the denial of Petitioner's application based upon a finding that Petitioner's combined resources exceeded the standard using the PAS date of June 2022, Petitioner and his wife were over resources in accordance with the standard when OCBSS conducted its review for eligibility.

Accordingly, for the reasons set forth in the Initial Decision and set forth above, I hereby ADOPT the Initial Decision's findings that OCBSS's denial of Petitioner's application for being over resources was appropriate in this matter.

² Petitioner had a remaining balance of \$21,094.50 as of September 6, 2023.

THEREFORE, it is on this 19th day of MARCH 2024,

ORDERED:

That the Initial Decision is hereby ADOPTED.

Gregory Woods OBO JLJ

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