

Procedurally, the time period for the Agency Head to file a Final Agency Decision is July 20, 2015, in accordance with N.J.S.A. 52:14B-10 which requires an Agency Head to adopt, reject, or modify the Initial Decision within 45 days of receipt. The Initial Decision in this matter was received on June 3, 2015.

This matter concerns the denial of Petitioner's application due to excess resources. Petitioner owns shares of Coca Cola and International Business Machines Corporation (IBM) that total \$89,309.28. This amount renders her ineligible for Medicaid benefits. The stocks are co-owned with her son, R.F. Petitioner, who is under the guardianship of the Office of the Public Guardian (OPG), attempted to sell the stocks but would need her son's consent. However, Petitioner's son is currently being cared for by the Department of Veterans Affairs (VA) medical system. According to VA staff he does not believe his mother is alive and has refused to sell the stock. Exhibit O. The staff also stated that Petitioner's son is blind and permanently disabled.

The Initial Decision found that Petitioner was entitled to have the stocks excluded from the Medicaid determination and could be found eligible. For the reasons that follow and due to the unique circumstances of this case, I hereby ADOPT and MODIFY the Initial Decision with regard to the stock. However, as Petitioner is subject to a transfer penalty as noted on the December 30, 2104 denial letter, the matter is returned to Union County to establish Petitioner eligibility date, calculate the penalty and issue a new eligibility notice.

In this matter, there are resources owned by Petitioner and her son that would count toward Petitioner's Medicaid eligibility. Petitioner's son appears to be incapacitated and unwilling or unable to agree to liquidate the assets.

Unless specifically excluded, all resources are considered when determining Medicaid eligibility. N.J.A.C. 10:71-4.1(b). Real property that can be converted to cash for the support and maintenance of an individual is included in the resource determination. However, resources that are inaccessible through no fault of the applicant may not be considered in determining eligibility. Additionally, Medicaid Communication No. 87-26 (effective August 18, 1987) instructs to temporarily exclude the value of a non-liquid resource if the Medicaid applicant or recipient agrees to and cooperates with a plan of liquidation. Once the resource is liquidated, if the individual's countable resources exceed the maximum limit, the county welfare agency will terminate eligibility until the individual's resources are spent-down to the appropriate limit.

I FIND that, at this juncture, the stock assets are not liquid or countable towards her Medicaid eligibility. Dependent on the legal action regarding the mental status of her son, those assets may become available to her and would affect her eligibility at that time. However, for the time being, I hereby instruct Union County to process the October 2013 application without regard to the stock certificates held jointly with Petitioner's son. Petitioner shall continue to apprise Union County of any developments with the availability of the stock.

I note that the denial notice in this case states that Petitioner would be subject to a transfer penalty at the time that she could otherwise establish eligibility. Union County should determine Petitioner's eligibility date and notify Petitioner of the penalty period.

THEREFORE, it is on this 14th day of JULY 2015,

ORDERED:

That the Initial Decision is hereby ADOPTED;

That Union County shall determine Petitioner's October 2013 Medicaid application without regard to the stock at this time and issue a new notice; and

That Petitioner shall keep Union County apprised of the availability of the stock including any guardianship proceedings regarding her son.



Valerie Harr, Director
Division of Medical Assistance
and Health Services