



State of New Jersey

DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES
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Lt. Governor

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

C.G. and J.G.,
PETITIONERS,
v.
DIVISION OF MEDICAL ASSISTANCE
AND HEALTH SERVICES AND
MONMOUTH COUNTY BOARD
OF SOCIAL SERVICES,
RESPONDENTS.
ADMINISTRATIVE ACTION
FINAL AGENCY DECISION
OAL DKT. NO. HMA 10899-15

As Director of the Division of Medical Assistance and Health Services, I have reviewed the record in this matter, consisting of the Initial Decision, the documents in evidence and the contents of the OAL case file. No exceptions to the Initial Decision were filed. Procedurally, the time period for the Agency Head to render a Final Agency Decision is March 31, 2016 pursuant to an Order of Extension.

Based upon my review of the record, I hereby ADOPT the Initial Decision with clarification. While I agree with the Administrative Law Judge that the County should have calculated Petitioners' income by averaging their earnings for the entire year, I note that she mistakenly relied upon N.J.A.C. 10:69-10.25, a regulation no longer used in determining financial eligibility. Indeed, as of January 1, 2014, the financial methodologies set forth in the Affordable Care Act (ACA) regulations must be used in determining financial eligibility. The ACA 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."

The determination that Petitioners do not qualify for benefits was based upon the County's calculation that took into account the self-employment income of C.G and J.G. as well as C.G.'s employment income as reflected in her November 2015 paystubs. However, the County's determination fails to take into account that C.G.'s employment as a photographer is generally limited to five months per year during the busy photography season. After that, her monthly income is substantially lower. See Initial Decision at page 3.


In this case, the County had two previous years of tax returns, which showed the annual income earned by Petitioners, including the employment income to be anticipated from C.J.'s job. Based on the tax returns, Petitioners have 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 their income over a 12-month period.

THEREFORE, it is on this 25th day of February 2016,

ORDERED:

That the Initial Decision reversing the denial of benefits is hereby ADOPTED. Monmouth County shall recalculate Petitioners' earnings by averaging their income over the entire year.



Meghan Davey, Director
Division of Medical Assistance
and Health Services