



System Pension, and \$5,285.71 from an annuity. The Monmouth County Division of Social Services (MCDSS) denied Petitioner's application for benefits as her income was sufficient to pay her medical expenses at the assisted living facility where she resides.

Prior to the denial of Petitioner's Medicaid application, Petitioner's assisted living facility sent a letter to MCDSS advising it that Petitioner's daily medical cost was \$75 per day. R-3. After the denial was issued, on July 26, 2022, Petitioner's counsel sent a letter to MCDSS, stating that Petitioner's daily rate at the assisted living facility is \$330 per day, rather than the \$75 per day noted by the facility. R-6. Copies of invoices from Petitioner's assisted living facility were included in counsel's letter. From January 2022 through April 2022, four separate charges appeared on those invoices: (1) Apartment xxx—one bedroom rate at \$255 per day; (2) Assistance with Daily Living II at \$40 per day; (3) Medication management II at \$35 per day; and (4) AL General store, which varied by month. Ibid. The May 2022 invoice showed that Petitioner had moved from an apartment to a studio, where the base rate was \$176.25 per day. Ibid. Invoices from June 2022 through August 2022 showed that Petitioner was residing in a studio at a rate of \$235 per day. Ibid. On July 26, 2022, the biller for Petitioner's assisted living facility sent a letter to Petitioner's counsel, stating that \$75 per day was not the correct reimbursement rate, and she was not sure who would have provided that amount as Petitioner's reimbursement rate. Ibid. No itemized invoices were provided to show what portion of the daily rate charged by the facility actually constituted medical expenses and what portion was room and board expenses. Moreover, the employee of the facility that testified at the hearing in this matter was not authorized to speak on behalf of the facility regarding its prices for care.

The federal Medicaid Act, Title XIX of the Social Security Act, 42 U.S.C. § 1396, et seq., provides for a joint federal-state program to provide medical assistance to individuals whose income and resources are insufficient to meet the "costs of necessary medical services." 42 U.S.C. § 1396-1. Medicaid provides "medical assistance to the poor at the

expense of the public.” Estate of DeMartino v. Div. of Med. Assist. & Health Servs., 373 N.J. Super. 210, 217 (App. Div. 2004) (quoting Mistrick v. Div. of Med. Assist. & Health Servs., 154 N.J. 158, 165 (1998); citing Atkins v. Rivera, 477 U.S. 154, 156, 106 S. Ct. 2456, 2458, 91 L. Ed. 2d 131, 137 (1986)), certif. denied, 182 N.J. 425 (2005); see also 42 U.S.C. § 1396-1. The New Jersey Legislature intended the Medicaid program “to provide medical assistance, insofar as practicable, on behalf of persons whose resources are determined to be inadequate to enable them to secure quality medical care at their own expense.” N.J.S.A. 30:4D-2.

The Initial Decision affirmed the denial, finding that Petitioner had sufficient income to pay for her assisted living facility. I concur. Petitioner’s assisted living facility affirmatively informed MCDSS that Petitioner’s medical expenses were \$75 per day. While Petitioner and her facility are now claiming that this number is incorrect, no one, including the facility, have been able to specify what portion of the daily rate charged by the facility constitutes medical expenses. The invoices from the facility show room rates varying from \$176.25 to \$255 per day. Additional charges for “Assistance with Daily Living” in the amount of \$40 per day and “Medication Management” of \$35 per day total the \$75 per day in medical expenses that the facility previously informed MCDSS was the total cost of Petitioner’s daily medical expenses. The record contains no indication what portion of the \$176.25 to \$255 daily rates noted are attributable to Petitioner’s medical care and what portion are strictly room and board costs.

Assisted living facilities are considered community placements and are available to Medicaid eligible individuals under a federal waiver that permits the expansion of services. Unlike nursing homes, individuals in an assisted living facility are responsible to pay their room and board costs. See New Jersey FamilyCare Comprehensive Waiver. [https://www.state.nj.us/humanservices/dmahs/home/NJFC\\_1115\\_Amendment\\_Approval\\_Package.pdf](https://www.state.nj.us/humanservices/dmahs/home/NJFC_1115_Amendment_Approval_Package.pdf) and [https://www.nj.gov/humanservices/doas/forms/PR-2\\_inst.pdf](https://www.nj.gov/humanservices/doas/forms/PR-2_inst.pdf). Thus, while Petitioner alleges in her exceptions to the Initial Decision that itemization of expenses is not

required under the rules, room and board costs in an assisted living facility are not considered a medical expense, and the portion of the daily rate presented by Petitioner that constitutes her room and board cost must be teased out of the daily rate in order to determine Petitioner's total medical costs, which are covered by Medicaid. See G.T. v. DMAHS and Gloucester Board of Social Services, OAL Dkt. No. HMA 7855-12, Final Decision December 12, 2012, where the monthly room and board cost of a \$6,250 facility was determined to be \$1,491 a month. MCDSS was unable to independently determine Petitioner's total medical costs without an itemization of expenses and was left to depend on the information specifically provided by Petitioner's facility regarding Petitioner's medical costs, which it claimed was \$75 per day. Petitioner's monthly income of \$8,933.45 far exceeds the monthly cost of Petitioner's medical expenses of \$75 per day, which would total approximately \$2,250 per month.

7<sup>th</sup> day of JULY 2023,

ORDERED:

That the Initial Decision is hereby ADOPTED.

Carol A Grant  
OBO Jennifer  
Langer Jacobs

Digitally signed by Carol A  
Grant OBO Jennifer Langer  
Jacobs  
Date: 2023.07.07 14:29:47  
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Jennifer Langer Jacobs, Assistant Commissioner  
Division of Medical Assistance and Health Services