



PHILIP D. MURPHY
Governor

TAHESHA L. WAY
Lt. Governor

State of New Jersey
DEPARTMENT OF HUMAN SERVICES
Division of Medical Assistance and Health
Services
P.O. Box 712
Trenton, NJ 08625-0712

SARAH ADELMAN
Commissioner

JENNIFER LANGER JACOBS
Assistant Commissioner

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

L.P.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE

AND HEALTH SERVICES AND

HUDSON COUNTY DEPARTMENT

OF FAMILY SERVICES,

RESPONDENTS.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 00174-22

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. No exceptions were filed in this matter. Procedurally, the time period for the Agency Head to render a Final Agency Decision is December 7, 2023, in accordance with an Order of Extension.

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This matter arises from Hudson County Department of Family Services' (HCDFS) December 2, 2021 determination that Petitioner was eligible for Medicaid benefits beginning on November 1, 2021. Petitioner submitted the initial Medicaid application on October 29, 2021. R-A. In a March 9, 2022 letter HCDFS confirmed that while Petitioner was eligible for retroactive benefits for the month of July, 2021, Petitioner was ineligible for benefits for the months of August 2021, September 2021, and October 2021. R-C. Petitioner, through his Designated Authorized Representative (DAR), appealed the determination, asserting that an earlier eligibility date, including benefits for the months of August 2021, September 2021 and October 2021, should be granted. Based upon my review of the record, I hereby ADOPT the findings and conclusions of the Administrative Law Judge (ALJ) finding that Petitioner's effective eligibility date should be amended to October 1, 2021. N.J.A.C. 10:71-4.5(c) states that participation in the Medicaid Only program will be denied if the resources of an individual exceed \$2,000. In determining resource eligibility in accordance with N.J.A.C. 10:71-4.5(c), a resource must be "available." A resource shall be considered available to an individual when:

The person has the right, authority or power to liquidate real or personal property or his or her share of it;...

[N.J.A.C.10:71-4.1(c).]

Resource eligibility is determined as of the first moment of the first day of the month. 20 C.F.R. § 416.1207(a) and N.J.A.C. 10:71-4.1(e). Additionally, any resource that is not specifically excluded by regulation "shall be considered a countable resource for the purpose of determining Medicaid Only eligibility." N.J.A.C. 10:71-4.2(a). N.J.A.C. 10:71-4.1(e)2 states that if, "prior to the first moment of the first day of the month, the

applicant or beneficiary has drawn a check (or equivalent instrument) on a checking or similar account, the amount of such check shall reduce the value of the account.” That section goes on to caution that “[t]he value of such accounts shall not be reduced by any unpaid obligations for which funds have not already been committed by the drafting of a check.” N.J.A.C. 10:71-4.1(e)2. As set forth in N.J.A.C. 10:71-4.1(e)2, if a check is drawn on an account prior to the first day of the month, the check shall reduce the value of the account as of the first of the month following the issuance of the check. Moreover, “[w]hen checks have been drawn on an account, the CWA shall review the appropriate account registers or check stubs to ascertain the actual balance as of the first moment of the first day of the month.” Medicaid law requires [the agency] to follow “the money trail throughout the relevant month in order to determine the end game of the check drawn.” H.M. v. Union Cty. Bd. Of Soc. Svs., 2016 N.J. Agen LEXIS 1246 (December 16, 2016) Full documentation of such circumstances is required.” N.J.A.C. 10:71-4.1(e)2i.

The undisputed evidence in the record indicates that on June 4, 2021 the balance in Petitioner’s account was \$14,354.83. R-E. On June 8, 2021, Petitioner drafted a check in the amount of \$14,256.00 to the nursing home in which he resided. R-E. The facility forwarded that check to the New York offices of Future Care Consultants, where it was not cashed and cleared from Petitioner’s bank account until October 29, 2021. R-E. In explaining why the check took so long to clear, the facility blamed an administrative error in its office, claim that the check had been “misplaced.” HCDFS contends that Petitioner was considered resource ineligible for retroactive benefits of August 2021, September 2021, and October 2021 as there was “no proof that the funds...were not accessible to [Petitioner]”...and that there was nothing “that prevented [Petitioner] from withdrawing the

funds from his account, charging his account or transferring funds from his account while his balance was significantly over the resource limit." I disagree with that argument.

As delineated in the nursing home's invoice, the Petitioner's funds were committed to cash/liquidated to pay for his "support and maintenance" for May 2021 and June 2021. Following the commitment of the funds to the nursing home, which were credited for past services rendered, Petitioner no longer had any right to such funds. While the funds were still in Petitioner's checking account, they had been clearly committed to the nursing home and accordingly such funds were no longer "available" to Petitioner as defined by N.J.A.C. 10:71-4.4(c). R-E.

If HCDFS applied the \$14,256.00 check to Petitioner's July 2021 bank account balance as set forth in N.J.A.C. 10:71-4.1(e)2, Petitioner's established spenddown would have reduced Petitioner's account balance to \$98.83 for July 2021, August 2021, September 2021 and October 2021.¹ R-F. Accordingly, Petitioner was financially eligible for Medicaid and entitled to retroactive eligibility for the aforementioned period.

Thus, based upon the unique circumstances of this case and for the reasons set forth above, I hereby ADOPT the Initial Decision in this matter and FIND that the eligibility date for Petitioner's Medicaid benefits is October 1, 2021.

THEREFORE, it is on this 28th day of NOVEMBER 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: 2023.11.28 15:14:44 -05'00'

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

¹ Petitioner also had interest payments in his account resulting in a total account balance of \$100.26 for the period of June 4, 2021-November 3, 2021.