



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. HMA 00084-24

AGENCY DKT. NO. N/A

S.K.,

Petitioner,

v.

HUDSON COUNTY DEPARTMENT

OF FAMILY SERVICES,

Respondent.

S.K., petitioner, pro se

Cresenia Nelson, HSS1, for respondent pursuant to N.J.A.C. 1:1-5.4(a)3

Record Closed: April 5, 2024

Decided: April 12, 2024

BEFORE **ANDREA PERRY VILLANI,** ALJ:

STATEMENT OF THE CASE

On November 27, 2023, the Hudson County Department of Family Services (Agency) terminated S.K.'s New Jersey Family Care health coverage for being over income. Should S.K.'s IRA contributions be included when calculating his income for NJ Family Care eligibility purposes? No. Under the Affordable Care Act, income

calculations for New Jersey Family Care health coverage are based on Federal tax filing concepts that allow for IRA contributions to be deducted from gross income.

PROCEDURAL HISTORY

On November 27, 2023, the Agency issued a Notice of Eligibility terminating S.K.'s New Jersey Family Care health coverage.

On December 14, 2023, S.K. filed a request for a Fair Hearing.

On March 22, 2011, the Division of Medical Assistance and Health Services transmitted the case to the Office of Administrative Law under the Administrative Procedure Act, N.J.S.A. 52:14B-1 to -15, and the act establishing the Office of Administrative Law, N.J.S.A. 52:14F-1 to -23, for a hearing under the Uniform Administrative Procedure Rules, N.J.A.C. 1:1-1.1 to -21.6.

On March 28, 2024, the hearing commenced. S.K. had submitted his 2022 Federal Tax Return to the Agency with his Medicaid application, but the Agency did not provide a copy of the Tax Return for the fair hearing. S.K. also emailed a copy of his 2023 Federal Tax Return Transcript to the Agency's Fair Hearing Liaison (FHL) in advance of the hearing. I allowed the parties time to provide these materials and rescheduled the hearing.

On April 2, 2024, I received S.K.'s 2023 Federal Tax Return Transcript from the FHL.

On April 5, 2024, the hearing concluded, and the record closed.

FINDINGS OF FACT

Based on the evidence presented at the hearing I **FIND** the following **FACTS**:

1. S.K. and his wife, K.C., both work for the Bayonne Board of Education as teachers' aides. They earn the same income and, as school employees, they are only paid during the academic year, from September to June.
2. During the months of September to June, S.K. and K.C. are each paid \$1,245 twice per month, which is \$2,490 per month, for a total gross household income of \$4,980 per month. (R-2, R-3.) The Agency uses this amount to conclude that S.K. is over income. Notably, the Agency's termination letter stated that S.K.'s income was \$5,394 per month, which it concedes was inaccurate.
3. S.K. and K.C.'s net income is significantly less – only about \$1,500 per month – as they contribute a substantial portion of their income each pay period to a Lincoln National IRA. (R-2, R-3.)
4. The Lincoln National IRA deductions listed on S.K. and K.C.'s paystubs are marked with an asterisk, and the asterisk indicates at the bottom of the paystub that said deductions are "exempt from Federal Tax." (R-2, R-3.)
5. S.K. and K.C. filed a Joint Tax Return for the Tax year 2023 reflecting total wages of \$28,861, taxable interest and dividend income of \$173, total IRA deductions of \$11,500, and adjusted gross income of \$17,534. (P-1.)
6. With an adjusted gross income of \$17,534 per year, S.K. and K.C.'s average adjusted monthly income is \$1,461.17.
7. According to the Agency's own termination notice: "MAGI in an acronym for Modified Adjusted Gross Income...based on the same principles as Adjusted Gross Income on the Federal Income Tax Return...only income that is taxable is included as MAGI income...expenses that are deductible on page one of the U.S. Income Tax Return 1040 are deductible to arrive at countable MAGI income." (R-1.)
8. The NJ Family Care program income limit is 138% of the poverty level, or \$2,268 per month for a household of two. (R-1.). S.K.'s MAGI is \$1,461.17 per month, which is below the program limit.

CONCLUSIONS OF LAW

In 2014, New Jersey expanded its existing Medicaid program in accordance with the Patient Protection and Affordable Care Act (ACA), Pub. L. No. 111-148, 124 Stat. 119 (2010). See N.J. Dep't of Human Servs., Div. of Med. Assistance & Health Servs., Medicaid Communication No. 14-12, Affordable Care Act Eligibility Information (Nov. 17, 2014). Pursuant to the ACA and in order to receive Federal funds, New Jersey expanded its NJ Family Care program to provide health insurance to previously ineligible adults with income up to 138 percent of the poverty level. Id. at 3, 4. It also established a new method for counting income based on an applicant's Modified Adjusted Gross Income (MAGI). Id. at 6; 42 C.F.R. 435.603. MAGI income is calculated using the same financial methodologies used to determine Modified Adjusted Gross Income as defined by the Internal Revenue Service code. 42 C.F.R. 435.603(e).

More specifically, MAGI calculations are based on an applicant's household composition and the household member's adjusted gross income, minus allowable deductions. Medicaid Communication No. 14-12, p. 6. The head of household's income and his or her spouse's income are always counted in the household. Id. After determining whose income is counted in the household, the steps for determining MAGI for each individual are as follows: first, determine if any types of income need to be excluded from MAGI (e.g. child support, SSI, etc.); second, determine what income is included in MAGI (e.g. wages, salaries, tips, taxable interest, etc.); third, subtract any allowable deductions. Id. at 7-8. An "IRA Deduction" is an allowable deduction. Id. at 8.

In this case, the household is comprised of S.K. and his spouse, K.C. They do not have any excludable income. Their includable income, as set forth above, is comprised of wages, taxable interest and dividends; however, they also have substantial deductions in the form of IRA contributions. Although the Agency questioned whether said IRA deductions on S.K.'s Tax Return were "correct," according to IRS Publication 590-A (2023), the IRA contribution limit in 2023 was \$7,500 for individuals aged 50 or older (\$15,000 for a married couple age 50 or older). Here, S.K. and K.C.'s combined IRA contributions in 2023 were \$11,500, well below the limit set by the IRS code. Therefore, I **CONCLUDE** that the IRA contributions were allowable deductions and the Agency incorrectly counted S.K.'s IRA contributions when calculating MAGI for NJ Family Care coverage. I further **CONCLUDE** that S.K.'s MAGI,

after the allowable IRA deductions, is \$17,534 per year, or \$1,461.17 per month, and thus less than the applicable program limit for ACA/NJ Family Care health coverage at \$2,268 per month.

Finally, the fact that S.K. and his wife may have substantial retirement assets in the form of IRAs or otherwise does not render them ineligible for Medicaid under the Affordable Care Act. Under the Medicaid expansion rules, financial eligibility is based solely on income, not resources. 42 C.F.R. § 435.603. In other words, there is no resource or asset test. 42 C.F.R. § 435.603(g); Medicaid Communication No. 14-12, p. 9. Therefore, for all of the foregoing reasons, I **CONCLUDE** that S.K. and his wife, K.C., qualify for New Jersey Family Care health coverage.

ORDER

Given my findings of fact and conclusions of law, I **ORDER** that S.K. and K.C.'s ACA/New Jersey Family Care health coverage be reinstated.

I **FILE** this initial decision with the **ASSISTANT COMMISSIONER OF THE DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES**. This recommended decision is deemed adopted as the final agency decision under 42 U.S.C. § 1396a(e)(14)(A) and N.J.S.A. 52:14B-10(f). The **ASSISTANT COMMISSIONER OF THE DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES** cannot reject or modify this decision.

If you disagree with this decision, you have the right to seek judicial review under New Jersey Court Rule 2:2-3 by the Appellate Division, Superior Court of New Jersey, Richard J. Hughes Complex, PO Box 006, Trenton, New Jersey 08625. A request for judicial review must be made within 45 days from the date you receive this decision. If you have any questions about an appeal to the Appellate Division, you may call (609) 815-2950.

April 12, 2024



DATE

ANDREA PERRY VILLANI, ALJ

Date Received at Agency:

April 12, 2024

Date Mailed to Parties:

April 12, 2024

APPENDIX

WITNESSES

For Petitioner:

S.K.

For Respondent:

Cresenia Nelson

EXHIBITS

For Petitioner:

P-1 S.K.'s 2023 Federal Tax Return Transcript

For Respondent:

R-1 Termination Notice dated November 27, 2023

R-2 S.K.'s Paystubs from September 16, 2023 through October 15, 2023

R-3 K.C.'s Paystubs from September 16, 2023 through October 15, 2023