



**State of New Jersey**  
OFFICE OF ADMINISTRATIVE LAW

**INITIAL DECISION**

OAL DKT. NO. HMA 00007-25  
Agency No. 0910095146-01

**N.F.,**

Petitioner,

v.

**HUDSON COUNTY DEPARTMENT**

**OF FAMILY SERVICES,**

Respondent.

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N.F., petitioner appearing pro se

**Eduardo Doroteo**, Human Services Specialist 3, for respondent under N.J.A.C. 1:  
-1-5.4(a)(3).

Record Closed: April 23, 2025

Decided: April 30, 2025

**BEFORE Nanci G. Stokes, ALJ:**

**STATEMENT OF THE CASE**

Petitioner and his estranged wife live in separate apartments in his wife's home, but he provides no proof that he pays her monthly rent, and his address often has no apartment number. His income is below the Aged, Blind, and Disability Medicaid (ABD)

limit, but the couple's combined income exceeds the limit. Is petitioner eligible for ABD? No. Respondent must count an ineligible spouse's income when the applicant and spouse live in the same household. N.J.A.C. 10:71-5.5(a).

### **PROCEDURAL HISTORY**

On October 7, 2024, Hudson advised the petitioner he was ineligible for the ABD Medicaid program because petitioner's household was over the applicable income limit.

Petitioner appealed the determination.

The Division of Medical Assistance and Health Services (DMAHS) transmitted this case to the Office of Administrative Law (OAL), where it was filed on December 4, 2024, as a contested case under the Administrative Procedure Act, N.J.S.A. 52:14B-1 to-15, and the act establishing the OAL, N.J.S.A. 52:14F-1 to-13, for a hearing under the Uniform Administrative Procedure Rules, N.J.A.C. 1:1-1.1 to -21.6.

DMAHS's transmittal notes that this case is subject to its October 23, 2023, Order, which deems this Initial Decision a Final Decision.

I held the hearing on April 23, 2025, and closed the record.

### **DISCUSSION AND FINDINGS OF FACT**

Based on the testimony provided and my assessment of its credibility, together with the documents submitted and my evaluation of their sufficiency, I **FIND** the following as **FACT**:

Petitioner is the applicant and has the authority to pursue this appeal.

On January 28, 2024, petitioner applied for the ABD program online. Hudson requested additional information, which the petitioner did not provide promptly. Hudson

advised the petitioner that his coverage would end on May 30, 2024. Petitioner provided the documentation on May 23, 2024, and Hudson reconsidered the application.

When the petitioner applied for ABD, he received \$1,040 in Social Security benefits, below the income limit for a household unit of one. Similarly, his resources were below the limit for a household unit of one. Thus, Hudson does not dispute that if petitioner is considered a household unit of one, he would be eligible for ABD Medicaid.

Yet, the petitioner is married. In approximately June 2020, the couple separated. They did not divorce for religious reasons, but his wife rented an apartment to him because of their adult child. In other words, she allows him to stay in the apartment as a favor to the petitioner. The residence they live in consists of two apartments, designated as one and two, and each spouse has their own PSE&G utility bill. Per the rental agreement, petitioner resides in apartment one.

When he applied, petitioner's spouse received monthly Retirement, Survivors, and Disability Insurance (RSDI) administered by the Social Security Administration (SSA) for \$1,874. Her income alone exceeds the ABD income limit for a household of two. Regardless, Hudson considered both income sources in determining that petitioner was financially ineligible for ABD Medicaid.

Still, the petitioner maintains that he and his wife have separate households in two apartments. Given his inability to pay a security deposit or first month's rent with his limited Social Security income, he cannot afford to move.

In May 2023, the petitioner transferred his ownership interest in the property to his wife for ten dollars. Petitioner explains that his wife owned the home before, and he returned her interest in the property. They have no shared assets currently. Yet, his wife has considerable holdings in her name, far more than the ABD Medicaid resource limit of \$6,000 for a couple.

Petitioner explains that he had a rental requirement of \$650 in 2023, but he was behind many payments. In October 2023, his wife asked him to pay \$2,604 in city taxes

owed on the two-family property in her name to remain in the apartment, which he did via check. The May 2024 rental agreement for the apartment identifies a rental payment of \$750, which is due each month on the fifteenth. The lease requires the petitioner to pay for the utilities in the apartment. The petitioner admits that he often did not pay his rent on time because he has very little money for his monthly expenses through his only income through Social Security. Petitioner's wife now requires cash for rent because he wrote checks that the bank returned for insufficient funds. Statements from October 2023 through May 2024 reveal no check payable to his wife for rent. However, his bank statements reveal cash withdrawals near the fifteenth of the month that exceed his current rent, but his wife does not provide him with rent receipts to demonstrate that he makes the required rental payments.

Initially, Hudson relies on the petitioner's failure to support regular rental payments through checks or receipts noting cash payments to his wife, whether estranged or not. Here, I **FIND** petitioner supplies insufficient proof that he made required rental payments to his wife at any time absent checks or receipts, even though I acknowledge that petitioner's monthly Social Security income would make it difficult to make regular rent payments.

Further, Hudson points out that neither the petitioner nor his spouse's SSA accounts identify an apartment number, even though they first received benefits through the SSA well after their 2010 separation. The petitioner's bank account also does not specify an apartment number, just the address. Although the petitioner maintains that he was responsible for his PSE&G services since living separately, his checking account statements before December 2023 evidence no such payment. Further, the 2023 transfer of his share of the two-family marital residence to his wife for ten dollars is odd. The petitioner supplies no proof that his wife previously owned the property alone or that ten dollars was adequate consideration for the transfer.

In sum, I **FIND** that a preponderance of the evidence does not exist that petitioner resides in a separate household from his estranged wife.

## CONCLUSIONS OF LAW

Congress created the Medicaid program under Title XIX of the Social Security Act. 42 U.S.C. §§1396 to 1396w. The federal government funds the program that the states administer. Once the state joins the program, it must comply with the Medicaid statute and federal regulations. Harris v. McRae, 448 U.S. 297, 300 (1980). New Jersey participates in Medicaid through the New Jersey Medical Assistance and Health Services Act (Act). N.J.S.A. 30:4D-1 to -19.5.

Under the Act's authority, the Commissioner of the Department of Human Services (DHS) promulgated regulations implementing New Jersey's Medicaid programs to explain each program's scope and procedures, including income and resource eligibility standards. See, e.g., N.J.A.C. 10:71-1.1 to -9.5 (Medicaid Only); N.J.A.C. 10:72-1.1 to -9.8 (Special Medicaid Programs); E.S. v. Div. of Med. Assistance and Health Servs., 412 N.J. Super. 340, 347 (App. Div. 2010).

The Act also established the Division of Medical and Health Services (DMAHS) within the DHS to perform the administrative functions concerning Medicaid program participation. Bergen Pines County Hosp. v. New Jersey Dep't of Human Serv., 96 N.J. 456, 465 (1984); see also N.J.S.A. 30:4D-4, -5.

County welfare agencies (CWA), like Hudson, assist [DMAHS] in processing applications for Medicaid and determining whether applicants have met the income and resource eligibility standards." Cleary v. Waldman, 959 F. Supp. 222, 229 (D.N.J.1997), aff'd, 167 F.3d 801 (3d Cir.), cert. denied, 528 U.S. 870 (1999).

Significantly, an applicant bears the burden of establishing eligibility for Medicaid benefits. D.M. v. Monmouth Cnty. Bd. of Soc. Servs., HMA 6394-06, Initial Decision (April 24, 2007), adopted, Dir. (June 11, 2007), <http://njlaw.rutgers.edu/collections/oal/>.

N.J.A.C. 10:72-2.3(a) requires Hudson to verify all eligibility factors of a Medicaid applicant, including household composition. A CWA cannot establish Medicaid eligibility without credible verification of all eligibility factors. N.J.A.C. 10:72-2.3(e). Under N.J.A.C.

10:72-4.4, CWAs determine income eligibility under the ABD program using the income eligibility standards within N.J.A.C. 10:71-5.1 to -5.9, with certain exceptions. Notably, Hudson must consider the income of an ineligible spouse when the applicant lives in the same household. N.J.A.C. 10:71-5.5(a). Similarly, Hudson's resource eligibility determination follows resource standards at N.J.A.C. 10:71-4.1 to -4.11 according to N.J.A.C. 10:72-4.5. No facts support any income exclusions.

Here, I found that the petitioner and his spouse's unearned income exceeded the ABD program income limit, and he supplied insufficient evidence to demonstrate that he resides in a separate household from his estranged wife. See N.J.A.C. 72-4.1(a) (explaining the federal poverty guidelines control). Under the Affordable Care Act, the CWA must review an individual applicant's household status separately, irrespective of tax-filing status. Medicaid Communication No. 14-12. However, "for married couples residing together, each spouse is included in the household of the other." Id.; N.J.A.C. 10:71-5.5(a).

Therefore, because petitioner's household includes his estranged spouse, he is over the applicable income limit, I **CONCLUDE** that he is income **INELIGIBLE** for ABD Medicaid benefits under N.J.A.C. 72-4.1(a) and that his appeal should be **DISMISSED**.

### **ORDER**

Based on my findings of fact and conclusions of law, I **ORDER** that petitioner is ineligible for ABD Medicaid benefits under N.J.A.C. 72-4.1(a) and that petitioner's appeal is hereby **DISMISSED**.

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 of 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 30, 2025

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DATE

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**NANCI G. STOKES, ALJ**

Date Record Closed:

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Date Filed with Agency:

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Date Sent to Parties:

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**APPENDIX**

**Witnesses**

**For Petitioner:**

N.F.

**For Respondent:**

Eduardo Doroteo, HSS3

**Exhibits**

**For Petitioner:**

N/A

**For Respondent:**

R-1 Fair hearing packet, including denial, application, rental agreement, property transfer, SOLQ verification, and bank accounts.