



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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Governor

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Lt. Governor

ELIZABETHCONNOLLY
Acting Commissioner

VALERIE HARR
Director

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

E.B.	:	ADMINISTRATIVE ACTION
PETITIONER,	:	FINAL AGENCY DECISION
v.	:	OAL DKT. NO. HMA 5129-15
DIVISION OF MEDICAL ASSISTANCE	:	
AND HEALTH SERVICES AND	:	
CAMDEN COUNTY BOARD OF	:	
SOCIAL SERVICES,	:	
RESPONDENTS.	:	

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 entire contents of the OAL case file. No exceptions to the Initial Decision were filed. Procedurally, the time period for the Agency Head to file a Final Decision is August 27, 2015 in accordance with N.J.S.A. 52:14B-10 which requires an Agency Head to adopt, reject, or modify the Initial Decision within 45 days of receipt. The Initial Decision was received on July 13, 2015.

The ALJ held that in 2014 B.B. incurred exceptional circumstances that resulted in financial duress from a serious accident resulting in out-of-pocket medical expenses of at least \$764.60. The ALJ also held that B.B.'s other expenses (i.e. heater and drainage issues) were not incurred from "exceptional circumstances" but were ordinary expenses associated with maintaining a home. As a result, the ALJ determined she should receive an increase in her monthly allowance of \$110.65 to enable her to pay her medical bills over seven months.

ANALYSIS

We recommend that you adopt the Initial Decision. N.J.A.C. 10:71-5.7(e) provides: "If it is established at the hearing that the community spouse needs income above the amount established by the community spouse maintenance deduction due to exceptional circumstances resulting in financial duress, there shall be substituted for the community spouse maintenance deduction such amount as is necessary to alleviate the financial duress and for so long as directed in the final hearing decision." Thus, upon a finding of "exceptional circumstances leading to financial duress," the community spouse deduction may be adjusted to accommodate the needs of the spouse.

Pursuant to N.J.A.C. 10:71-5.7(e), this determination is left to the ALJ's discretion. In this case, B.B. provided documentation to support her unexpected expenses and the financial hardship that resulted. In fact, the mortgage loan statement dated March 5, 2015 reflects an increase in B.B.'s mortgage payment from \$1,0873.29 (a past due amount for March 2015) to \$1,271.78. The Board conceded and agreed that the community spouse maintenance deduction should be recalculated due to the increased mortgage. The only other expenses derived from exceptional circumstances are those relating to B.B.'s accident which justifies an increase in the spousal allowance. However, contrary to the ALJ, I recommend that we make a one-time increase to B.B.'s spousal allowance in the amount of \$764.60 rather than increasing B.B.'s spousal allowance by \$110 for the next seven months. This way we can assure she is able to pay her medical expenses.

If you agree with this recommendation, please sign the proposed Final Agency Decision by August 27, 2015.

Based upon my review of the record, I hereby ADOPT the Initial Decision. The regulations provide: "If it is established at the fair hearing that the community spouse needs income above the amount established by the community spouse maintenance deduction due to exceptional circumstances resulting in financial duress, there shall be substituted for the community spouse maintenance deduction such amount as is necessary to alleviate the financial duress and for so long as directed in the final hearing decision." N.J.A.C. 10:71-5.7(e). Thus, upon a finding of "exceptional circumstances leading to financial duress," the community spouse deduction may be adjusted to accommodate the needs of the spouse.

I agree with the ALJ that Petitioner is entitled to a share of the income of her institutionalized spouse. Specifically, I agree with the Administrative Law Judge that the outstanding medical bills resulting from Petitioner's wife's 2014 accident warrant consideration in the spousal allowance calculation. However, as Petitioner has ample income to cover the amount, I instruct that the entire amount of \$764.60 be added to the spousal deduction for one month rather than seven monthly installments of \$110.65.

THEREFORE, it is on this 17th day of AUGUST 2015,

ORDERED:

That the Initial Decision ordering that Petitioner's monthly spousal allowance be increased by \$764.60 for one month after which the deduction shall return to the amount calculated.



Valerie J. Harr, Director
Division of Medical Assistance
and Health Services