

## State of New Jersey

DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES
P.O. Box 712
Trenton, NJ 08625-0712

ELIZABETH CONNOLLY
Acting Commissioner

KIM GUADAGNO Lt. Governor

CHRIS CHRISTIE

Governor

MEGHAN DAVEY
Director

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

E.B.

PETITIONER.

V.

DIVISION OF MEDICAL ASSISTANCE:

AND HEALTH SERVICES &

ESSEX COUNTY BOARD OF

SOCIAL SERVICES,

RESPONDENTS.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 19196-2015

As Director of the Division of Medical Assistance and Health Services (DMAHS), I have reviewed the record in this case, including the OAL case file, the documents in evidence and the Initial Decision in this matter. Procedurally, the time period for the Agency Head to file a Final Decision is August 15, 2016 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 June 30, 2016.

This matter arises from the denial of Petitioner's request for Pre-Eligibility Medical Expenses (PEME) benefits filed in June 2015. Petitioner claims that a prior settlement agreement under OAL Docket No. HMA 8948-2014 sets Petitioner's eligibility date as of October 1, 2013 and seeks PEME for the three months prior to that date. Essex County denied the request as Petitioner had been found eligible as of January 1, 2014 and already received three months retroactive benefits to October 1, 2013. R-3.

The Initial Decision found that the request was untimely and upheld the denial. While I concur the Essex County was correct to deny the request, the denial was not based on timeliness. Petitioner is entitled to have the three months prior to the application covered either through a finding that he was eligible for those three months or permit certain medical expenses incurred in that same three month period be paid out his post-eligibility income. An application can only establish eligibility for the month in which it is filed. Congress provided that retroactive benefits are available when the applicant would have been financially eligible in the three months prior to the application. See N.J.A.C. 10:49-2.9(b) and 42 U.S.C. § 1396a(a)(34). Petitoner is only entitled to relief for medical expenses he incurred during one three-month period prior to his eligibility date. See Medicaid Communication No. 10-07. Thus, I FIND that, pursuant to the prior settlement, Petitioner did receive three months retroactive benefits based on a January 1, 2014 eligibility date. The terms of the agreement uses the word "retroactive" to describe the October 1, 2013 date. R-2.

In addition to the language in the settlement agreement, on October 3, 2014, Essex County sent a notice to the nursing home stating that Petitioner was found eligible as of January 1, 2014 with a "back date" of October 1, 2013. R-3. While this may be an inexact way of characterizing the retroactive period, Petitioner provided no

evidence that he submitted an application in October 2013 which is the only way he could have established eligibility in that month. Moreover, neither Petitioner nor the nursing home challenged the October 3, 2014 notice.

THEREFORE, it is on this 12th day of AUGUST 2016

ORDERED:

That the Initial Decision is hereby ADOPTED with regard upholding the denial of the request for PEME; and

That the Initial Decision is MODIFIED as set forth above with regard to the basis for the denial of the request for PEME.

Meghan Davey, Director

Division of Medical Assistance

and Health Services