

State of New Jersey

DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES
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Governor

KIM GUADAGNO

Lt. Governor

CHRIS CHRISTIE

ELIZABETH CONNOLLY
Acting Commissioner

MEGHAN DAVEY
Director

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

F.J.,

PETITIONER,

V.

DIVISION OF MEDICAL ASSISTANCE

AND HEALTH SERVICES &

CAMDEN COUNTY BOARD OF

SOCIAL SERVICES,

RESPONDENTS.

ADMINISTRATIVE ACTION

ORDER OF REMAND

OAL DKT. NO. HMA 9451-2015

ON REMAND HMA 15125-2014

As Director of the Division of Medical Assistance and Health Services, I have reviewed the record in this case, including the Initial Decision, the OAL case file and the documents filed below. Petitioner filed exceptions in this matter. Procedurally, the time period for the Agency Head to file a Final Agency Decision is June 13, 2016, in accordance with an Order of Extension.

Based on an application filed in July 2014, Petitioner was found to have resources in excess of the \$2,000 standard and the application was denied. Camden County identified accounts that had balances that well exceeded the \$2,000 resource standard and are titled in both Petitioner and her daughter's name as joint tenants.

In the prior proceeding, the Initial Decision determined that Petitioner had demonstrated that the funds in the account belonged to her daughter and should not be counted towards the Medicaid standard. However, the Final Agency Decision raised concerns that the record did not support this finding and noted that there were contradictions between the testimony and the documents. In reversing the Initial Decision, the matter was remanded for further proceedings related to the ownership and Petitioner's right to access the funds in these accounts.

On remand Petitioner produced documents regarding an account at TD Ameritrade titled to Petitioner and her daughter. Petitioner's daughter had filed a certification that both the TD Ameritrade account and the Morgan Stanley account required that both she and Petitioner "have to sign off on the account in order to gain access to the funds from the account or make transactions on the account." ID at 5 citing P-1. To that end, Petitioner provided a letter regarding the TD Ameritrade account but not the Morgan Stanley account. The letter from TD Ameritrade states that "[e]ach account owner can act independently with regard to transactions in the account." ID at 8.1 The ALJ found that this letter contradicts the daughter's assertion that Petitioner cannot access the funds without her. Rather it appears that Petitioner "in fact, has unrestricted access to all of the funds in the TD Ameritrade account." ID at 8. Based on Petitioner's daughter's certification that the Morgan Stanley account and TD

¹ The TD Ameritrade account had a balance of over \$12,000 at the time of application. P-1 at Exhibit C.

Ameritrade account had the same restricted access and, absent any evidence from Morgan Stanley, the ALJ found that there is insufficient "evidence to overcome the presumption that, like the TD Ameritrade account, [Petitioner] has access to all of the funds in the Morgan Stanley account." ID at 8.

In exceptions, Petitioner argues that the Morgan Stanley account was not accessible to Petitioner citing N.J.A.C. 10:71-4.1(d)(2). However, the last sentence of the regulation states "[a]ny question concerning access to funds should be verified though the financial institution holding the account." Petitioner provided no evidence from Morgan Stanley but did provide a letter setting forth that the TD Ameritrade account, which was worth substantially more, was fully accessible to Petitioner. Petitioner has always contended that these two accounts restricted her access in the same manner. Absent any proof to the contrary, the value of the Morgan Stanley account is considered available to Petitioner.

In reviewing the case file and the documents in evidence, I find no reason to disturb the Initial Decision's conclusion. Thus, I hereby ADOPT the Initial Decision.

THEREFORE, it is on this 10^{90} day of JUNE 2016

ORDERED:

That the Initial Decision is hereby ADOPTED.

Meghan Davey, Director

Division of Medical Assistance

and Health Services