



State of New Jersey

DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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MEGHAN DAVEY
Director

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

J.D.,	:	
	:	
PETITIONER,	:	ADMINISTRATIVE ACTION
	:	
v.	:	FINAL AGENCY DECISION
	:	
DIVISION OF MEDICAL ASSISTANCE	:	OAL DKT. NO. HMA 3198-2017
	:	
AND HEALTH SERVICES AND	:	
	:	
ESSEX COUNTY BOARD OF	:	
	:	
SOCIAL SERVICES,	:	
	:	
RESPONDENTS.	:	

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. Procedurally, the time period for the Agency Head to file a Final Decision is August 4, 2017, 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 20, 2017.

The matter arises regarding the eligibility date of Petitioner's Medicaid benefits. Petitioner entered the nursing home in December 2014. Petitioner filed her third application for benefits in July 2016. Essex County determined that Petitioner was eligible as July 1, 2016 by notice dated February 2, 2017. She was also given three months of retroactive eligibility beginning on April 1, 2016. ID at 4.

Petitioner is a resident of Summit Ridge nursing home. There were three applications filed on her behalf. On or about December 28, 2015, Petitioner, through her prior representative at Summit Ridge, appealed the denial of the first application dated April 6, 2015. That request was transmitted to OAL and docketed under HMA 2159-2016. The case was withdrawn by Petitioner's representative and the matter was returned to DMAHS on August 18, 2016.

The matter transmitted to OAL and the subject of this fair hearing concerns the third application only. In January 2017 Petitioner's Power of Attorney appointed Nikoleta Tzaferos as her authorized representative. Ms. Tzaferos is identified on the representation form as legal counsel for Waterview Center, another nursing facility. It is not clear if Ms. Tzaferos was involved with the prior fair hearing. However, the prior applications are not part of the current matter transmitted to the OAL.

Petitioner has received the full extent of benefits she is entitled to pursuant to the July 2016 application. Congress provided that retroactive benefits are available when the applicant would have been financially eligible in the three months prior to the application date. See N.J.A.C. 10:49-2.9(b) and 42 U.S.C. § 1396a(a)(34). Thus, there is no legal basis to alter the April 1, 2016 eligibility date.

The Initial Decision improperly entertains Petitioner's first application. As a result of the denial of her April 2015 application, Petitioner availed herself of the fair hearing

process but withdrew the case. ID at 3. The arguments raised here pertain to the April 2015 application. Petitioner's right to challenge that application was exercised by her representative from Summit Ridge in December 2015 and then withdrawn. There is no pending fair hearing concerning that application and it is not the subject of the matter transmitted. N.J.A.C. 1:1-3.2.

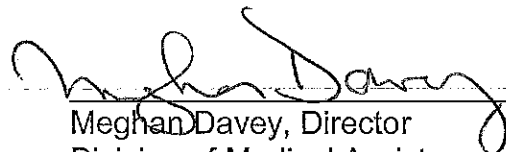
Thus, for the reasons set forth above, I hereby REVERSE the Initial Decision granting Petitioner eligibility in excess of the three month statutory limit. I further REVERSE the findings related to the first application as it is not subject of this fair hearing but rather was subject of a prior fair hearing. Petitioner's third application was approved with the earliest date permitted under law. Petitioner, or rather Summit Ridge, withdrew the challenge of the first application and took no action on the denial of the second application. A challenge at this time is outside the time frames of N.J.A.C. 10:49-10.3(b)(3) and the transmittal rules. N.J.A.C. 1:1-3.2. There is no basis or regulatory provision to alter the prior determination.

THEREFORE, it is on this ^{28th} day of JULY 2017,

ORDERED:

That the Initial Decision is hereby REVERSED;

That Petitioner's Medicaid eligibility is effective as of April 1, 2016 as determined by Essex County.


Meghan Davey, Director
Division of Medical Assistance
and Health Services