



State of New Jersey
Department of Human Services
Division of Medical Assistance and Health Services
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STATE OF NEW JERSEY
DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE
AND HEALTH SERVICES

C.F.,	:	
	:	
PETITIONER,	:	ADMINISTRATIVE ACTION
	:	
v.	:	FINAL AGENCY DECISION
	:	
DIVISION OF MEDICAL ASSISTANCE	:	OAL DKT. NO. HMA 7787-2017
	:	
AND HEALTH SERVICES AND	:	
	:	
MIDDLESEX 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 case file, the documents in evidence and the Initial Decision. No exceptions were filed. Procedurally, the time period for the Agency Head to file a Final Agency Decision in this matter is February 20, 2018, 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 in this matter was received on January 3, 2018.

This matter concerns the denial of Petitioner's March 2017 application for Medicaid benefits while she was residing in a nursing home. Petitioner's income of \$1,120 exceeded the Medicaid community standard of \$1,009 for 2017. This required that she meet nursing facility level of care in order to be found income eligible. Petitioner left the facility and applied again. She was found eligible as of August 1, 2017. She appealed that eligibility date and that matter was docketed under OAL HMA 13169-2017. Both matters were heard on the same day.

Nursing facilities are required to submit an LTC-2 form to the Office of Community Choice Options (OCCO) when a resident enters their facility and needs to have a clinical assessment performed. See N.J.A.C. 8:85-1.8 and N.J.A.C. 8:85-2.1. Individuals who are seeking Long Term Services and Supports (LTSS) in the community are also assessed for clinical eligibility. OCCO initially received information that Petitioner would be receiving LTSS in the community and sought to schedule an assessment. When OCCO finally reached Petitioner's granddaughter, it was discovered that Petitioner was residing in a nursing home. ID at 3.

The ALJ found that there was no evidence that either nursing home that admitted Petitioner notified OCCO that she was residing at their facility. ID at 3. Rather unsigned and incomplete LTC-2 forms were presented at the hearing. Petitioner did not provide any proof that the nursing facilities submitted the forms to OCCO.

Petitioner's only route for Medicaid eligibility is as an institutionalized individual under the special income levels which permits states to cover those up to 300% of the SSI federal benefit rate. 42 U.S.C. §1396a(a)(10)(A)(ii) (V) See also 42 C.F.R. § 435.1005 ("For recipients in institutions whose Medicaid eligibility is based on a special income standard ... FFP is available in expenditures for services provided to those

individuals only if their income before deductions does not exceed 300 percent of the SSI benefit amount....").

However, in order for eligibility to be granted at this higher income level, the nursing level of care must be necessary. Cf. 42 U.S.C.A. § 1396 and 1396a(30). In order to determine medically necessary services in a nursing home or pursuant to a home and community based waiver requiring nursing home level of care, a pre-admission screening is completed by "professional staff designated by the Department, based on a comprehensive needs assessment which demonstrates that the recipient requires, at a minimum, the basic NF services described in N.J.A.C. 8:85-2.2." N.J.A.C. 8:85-2.1(a). See also, N.J.S.A. 30:4D-17.10, et seq. Until such an assessment is completed, Petitioner may not be considered eligible at the higher income level.

The Initial Decision correctly determined that since no notice was received from the nursing facilities to initiate a clinical assessment, Petitioner's application was correctly denied as over income.

THEREFORE, it is on this 2nd day of FEBRUARY 2018,

ORDERED:

That the Initial Decision is hereby ADOPTED.



Meghan Davey, Director
Division of Medical Assistance
and Health Services