

PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES
PO Box 712
TRENTON, NJ 08625-0712

CAROLE JOHNSON Commissioner

MEGHAN DAVEY
Director

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

E.H.,

PETITIONER.

**ADMINISTRATIVE ACTION** 

V

FINAL AGENCY DECISION

DIVISION OF MEDICAL ASSISTANCE:

OAL DKT. NO. HMA 15223-2017

AND HEALTH SERVICES AND

OCEAN 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 contents of the OAL case file. No exceptions were filed. Procedurally, the time period for the Agency Head to render a Final Agency Decision is April 10, 2018 in accordance with an Order of Extension.

This matter concerns the amount of income received by Petitioner's husband. He receives a pension and has also been taking a monthly amount out of a retirement annuity managed by the same pension fund. Petitioner claims that the annuity is actually a

The record shows that Petitioner's husband has two sources of income from the pension company. One source is a monthly pension amount that pays for his lifetime. The other source is an annuity from which he has is making equal monthly withdrawals. These monthly withdrawals are at the discretion of Petitioner's husband as he has access to the entire amount at any point. Thus, I am satisfied that the balance of the annuity should be considered a resource.

The community spouse is allowed to keep what is called a "community spouse resource allowance" (CSRA). N.J.A.C. 10:71-4.8(a)(1); 42 U.S.C.A. § 1396r-5(f)(2). In general, the CSRA is one half of the couple's resources up to the CSRA limit (indexed annually. N.J.A.C. 10:71-4.8(a)(1); 42 U.S.C.A. § 1396r-5(c) and (f). There is also a minimum limit which a couple may retain. In 2017 the minimum limit was \$23,844. As such, the addition of annuity's value of \$10,265.30 to the couple's other resources of \$9,549.14 does not impact Petitioner's resource eligibility.

However, it is not clear from the record if the annuity withdrawals were included in the calculation of Petitioner's post-eligibility cost share. That calculation could impact Petitioner's cost share. As such, I hereby RETURN the matter to Ocean County to recalculate and modify the post-eligibility formula if warranted.

THEREFORE, it is on this 28% day of MARCH 2018,

ORDERED:

That the Initial Decision is hereby ADOPTED; and

That the matter is RETURNED to Ocean County for further action as stated above.

Meghan Davey, Director

Division of Medical Assistance

and Health Services