



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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Director

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

I.B.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE

AND HEALTH SERVICES AND

WARREN COUNTY BOARD OF

SOCIAL SERVICES,

RESPONDENTS.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 5766-2018

C.B.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE

AND HEALTH SERVICES AND

WARREN COUNTY BOARD OF

SOCIAL SERVICES,

RESPONDENTS.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 5768-2018

As Director of the Division of Medical Assistance and Health Services, I have reviewed the record in these consolidated cases, including the Initial Decision, the OAL

case file and the documents filed below. Neither party filed exceptions in this matter. Procedurally, the time period for the Agency Head to file a Final Agency Decision in this matter is September 10, 2018 in accordance with an Order of Extension.

The matter arises regarding the recovery of \$7,539.28 in incorrectly paid benefits. Petitioners and their three children had been eligible for Medicaid benefits. In August 2014, Petitioners notified Warren County that the husband began receiving weekly disability payments in July. R-1 at 2. That rendered the family ineligible for benefits but they were permitted a twenty-four month extension of benefits pursuant to N.J.A.C. 10:69-5.13. R-1 at 4. Petitioners reapplied for benefits in July 2015. No earned income was disclosed. However, Warren County ran a wage report for the wife's income but failed to include the disability payment in the family's income. That application included a letter from the wife about financial statements attached as well as a request to change the Managed Care Organization to align with the family doctor. Eligibility was granted with the incorrect income.

In January 2017 another renewal application was received that included the disability payment statements but did not disclose any earned income for the wife. That application was denied in May 2017 for failure to provide pay stubs to determine her monthly income. Petitioner appealed that denial and the case was docketed under HMA 06907-2017. Petitioner did not want Medicaid coverage to continue pending the fair hearing. R-1 at 9. That matter was later withdrawn as Warren County determined that the family's income of \$5,611 rendered the Petitioners ineligible and the children eligible under Plan D.

Based upon my review of the record, I hereby REVERSE the Administrative Law Judge's recommended decision that the overpayment should be waived. Warren County Board of Social Services was authorized to seek reimbursement of the incorrectly paid benefits pursuant to N.J.S.A. 30:4D-7.i during the time period Petitioners were over income.

As stated above, the applications filed by Petitioners did omit wages that when combined with the disability payment would render them ineligible. R-3. The ALJ's reliance on the Petitioners' claim that they only sought benefits for their three minor children or that the parents did not use the Medicaid benefits that were improperly granted to waive the overpayment are hearsay and not supported by the record. ID at 4.

A finding of fact based on hearsay must be supported by competent evidence. N.J.A.C. 1:1-15.5(b), the **residuum rule**, requires "some legally competent evidence" to exist "to an extent sufficient to provide assurances of reliability and to avoid the fact or appearance of arbitrariness." Petitioners only claim that they did not use Medicaid benefits during the contested time period; not that they did not use benefits for the entire time they were on Medicaid. To be believed, the parents would have had to stop using Medicaid on August 1, 2016. There is no statement from their physician, who is specifically requested in the application, that Petitioners were not seen and no services were rendered after that date. Petitioners have been receiving benefits since 2014 and the record shows that the family had no other health insurance. P-1 at 5 and 6. I note that the husband was on temporary total disability since 2014 and his wife stated that she was his caregiver. P-1 at 2. The eligibility letter dated January 14, 2016 grants the parents Medicaid benefits and there is no evidence they sought to remove this coverage. R-1 at 6. Petitioners' 2017 application stated that both parents currently had Medicaid benefits and wished to continue. R-1 at 7. Thus, I find no basis to waive the overpayment.

THEREFORE, it is on this 7th day of SEPTEMBER 2018,

ORDERED:

That the Initial Decision is hereby REVERSED; and

That Petitioners are subject to the overpayment.



Meghan Davey, Director
Division of Medical Assistance
and Health Services