



**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.P.,**

**PETITIONER,**

**v.**

**DIVISION OF MEDICAL ASSISTANCE :**

**AND HEALTH SERVICES AND :**

**BURLINGTON COUNTY BOARD OF :**

**SOCIAL SERVICES, :**

**RESPONDENTS. :**

**ADMINISTRATIVE ACTION**

**FINAL AGENCY DECISION**

**OAL DKT. NO. HMA 12467-2016**

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. No exceptions were filed in this matter. Procedurally, the time period for the Agency Head to file a Final Decision is July 13, 2018 in accordance with an Order of Extension.

The matter arises regarding the denial of Petitioner's application Medicaid benefits. At issue are Petitioner and his wife's handling of their assets including the

purchase of an annuity for \$209,914.59 in September 2015 that was payable to his wife. Petitioner entered the nursing home in April 2015 and applied for Medicaid benefits in May 2016. Petitioner contends that the value of the annuity should not be counted towards eligibility and he should be eligible as of February 2016. Burlington County determined that the annuity contract that was submitted was not signed and that the value of the annuity was countable. The application was denied on July 21, 2016. Petitioner died in November 2016.

The Initial Decision held that Petitioner's annuity does not count towards his eligibility. While Petitioner presented an unsigned annuity contract, the bank records show that the annuity began paying to his wife. That annuity contract does meet the standards of the Deficit Reduction Act of 2005 that permits the use of annuities to shelter assets. 42 U.S.C.A. § 1396p(c) and (e). In light of the payments from the annuity contract, it can be assumed that the annuity company was able to issue the annuity without the authorizations from Petitioner's wife regarding her citizenship and that the information she provided was accurate and complete. R-B at 39.


I agree that the annuity contract in itself is not a bar to Petitioner's Medicaid eligibility. However, those annuity payments are considered income in the month received and a resource thereafter. N.J.A.C. 10:71-4.1(c). The payments began in September 2015, nine months before applying for Medicaid. Any unspent income at the end of each of those months is considered the couple's resource and could impact Petitioner's eligibility. Additionally, Petitioner's wife owned a second property that had to be liquidated. It appears that the realtor listing expired the month after Petitioner applied and the record contains no further information about the sale. P-16. Thus, I hereby ADOPT the Initial Decision and RETURN the matter to Burlington County to determine eligibility including but not limited to the issues described above.

THEREFORE, it is on this <sup>6<sup>th</sup></sup> day of JULY 2018,

ORDERED:

That the Initial Decision is hereby ADOPTED; and

That the matter is RETURNED to Burlington County for further action on  
Petitioner's application.

  
Meghan Davey, Director  
Division of Medical Assistance  
and Health Services