



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

CAROLE JOHNSON
Commissioner

MEGHAN DAVEY
Director

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

P.B.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE

& HEALTH SERVICES &

MIDDLESEX COUNTY BOARD OF

SOCIAL SERVICES,

RESPONDENTS.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 9857-2017

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. Neither party filed exceptions in this matter. Procedurally, the time period for the Agency Head to file a Final Agency Decision is August 16, 2018, in accordance with an Order of Extension.

Petitioner was denied benefits due to excess resources. He had applied for benefits in April 2017 and was denied by letter dated June 20, 2017. He submitted a second application and found otherwise eligible as of November 1, 2017 but subject to a

penalty for transferring \$123,866. That penalty expires on August 20, 2018. Petitioner appealed both actions by Middlesex County but only the June 2017 denial was transmitted. Rather Petitioner's appeal of the November 1, 2017 date was denied as out of time. By letter dated March 1, 2018, Petitioner's counsel was notified that that the appeal was received 79 days from the date of the December 4, 2017 letter, well outside of the 20 day time limit. N.J.A.C. 10:49-10.3(a). As such the matter was not transmitted to OAL as a contested matter and is outside the scope of matter decided.

The Initial Decision determined that Petitioner was correctly denied benefits due to excess resources. Petitioner is seeking to have the transfer penalty start in February 2017 so as to align the penalty with a Croatian Annuity he purchased to pay for his care while he was being penalized for the transfer. However, prior to being found eligible Petitioner had to meet the resource standard as well as properly fund a Qualified Income Trust (QIT).

Petitioner created a QIT in February 2017. As Middlesex noted the \$90,282 he had used to purchase the annuity was still available to him as of February 1, 2017. This caused him to be ineligible for that month. In March Petitioner then deposited funds that did not align with the income specified in the QIT. R-F. Petitioner did the same in April 2017 and deposited over \$7,000 more than his reported income. R-F.

Nothing presented at hearing demonstrates that Petitioner had established income and resource eligibility prior to being denied in July 2017. The subsequent application was eventually approved effective November 2017 at which time the penalty would commence. As noted above, this notice was not timely appealed and was not transmitted to OAL. Petitioner was apprised of this by letter dated March 1, 2018.

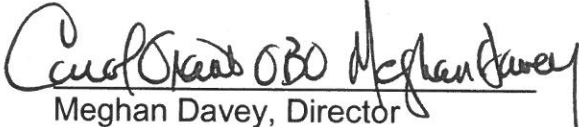
Thus, I ADOPT the Initial Decision upholding the denial of Petitioner's April 2017 Medicaid application. I hereby MODIFY the Initial Decision as the issue of Petitioner's November 1, 2017 eligibility was not transmitted to OAL. N.J.A.C. 1:1-3.2. Rather Petitioner's request for a hearing on that date was denied as out of time. However, I note that the determination that Middlesex County correctly determined eligibility as of November 1, 2017 has the same effect as the denial of Petitioner's hearing request as out of time.

THEREFORE, it is on this ^{15th} day of AUGUST 2018

ORDERED:

That the Initial Decision is hereby ADOPTED with regarding to the denial of the April 2017 application; and

That the Initial Decision is hereby MODIFIED as set forth above.


Meghan Davey, Director
Division of Medical Assistance
and Health Services