



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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Acting Commissioner

MEGHAN DAVEY  
Director

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

R.D.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE

AND HEALTH SERVICES AND

CAMDEN COUNTY BOARD OF

SOCIAL SERVICES,

RESPONDENTS.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 13092-2017

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. No exceptions were filed in this matter. Procedurally, the time period for the Agency Head to file a Final Decision is February 12, 2018 in accordance with an Order of Extension.

The matter arises regarding the eligibility date from Petitioner's May 2017 application for Medicaid benefits. Petitioner was found eligible as of May 1, 2017 with retroactive benefits for February, March and April 2017. Petitioner contends that her

guardian mailed in an application in November 2016 to Camden County and that date should be honored. Camden County has no record of receiving that application.

The Initial Decision held that Petitioner's November 2016 application was mailed and that Camden County did not receive it. Nevertheless, the ALJ found Petitioner should have been determined eligible as of October 1, 2016. This is incorrect based on the law and the record of this case. Thus, for the reasons that follow, I hereby REVERSE the Initial Decision and MODIFY the May 1, 2017 eligibility date.

Petitioner's total income of \$1,207 is above the limit of \$990. 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.

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). This is done through a pre-admission screening (PAS) 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. In this case the assessment was done effective December 1, 2016, which is the earliest date she could be found eligible.

The Initial Decision found that Petitioner's guardian and Camden County were both credible in asserting that the application had been mailed and that the application had not been received. ID at 4. There is no documentary evidence on either side about the mailing. It is unlikely there would be any for Camden County as the application was not received. However, it is more likely that the 16 page application would have required

additional postage and a receipt from the post office. The claim that Petitioner was unable to reach anyone at Camden does not comport with the fact that the Medicaid Hotline number is on the launch page for accessing the printable application. There are no contemporaneous notes about the phone calls and there is also no indication that Petitioner's guardian was in touch with the nursing facility which would be familiar with the Medicaid application process. Rather four months later, Petitioner sought help from a legislator.

However, Petitioner's guardian was able to contact Camden County on April 12, 2017. While the prior printed application could have been re-signed and submitted, Petitioner's guardian filled out a new application by hand and it was marked received as of May 9, 2017. When face-to-face applications were required, the counties used the date of contact to set up the interview to hold the eligibility date. Due to the unique circumstances in this case, that practice should be utilized here.


Thus, I hereby REVERSE the Initial Decision and MODIFY Petitioner's eligibility date to be April 1, 2017 with retroactive eligibility for January, February and March 2017.

THEREFORE, it is on this <sup>8th</sup> day of FEBRUARY 2018,

ORDERED:

That the Initial Decision is hereby REVERSED; and

That Petitioner's eligibility date is April 1, 2017 with retroactive benefits as described above.

  
Meghan Davey, Director  
Division of Medical Assistance  
and Health Services