

This case arises from the Atlantic County Department of Family and Community Development's (Atlantic County) October 26, 2021 notice finding Petitioner eligible for Medicaid benefits and imposing a penalty of 32 days for the transfer of \$11,772.44. On November 24, 2021, Petitioner appealed Atlantic County's notice claiming that the date of eligibility and transfer penalty determination would affect her ability to enroll in the PACE program. Petitioner provided no notice from the PACE program concerning her enrollment or denial of services. Accordingly, the contested matter transmitted to the OAL was Petitioner's appeal of Atlantic County's notice of eligibility for Long Term Care Medicaid and transfer penalty.

Administrative agencies have the discretion to determine whether a case is contested. N.J.S.A. 52:14f-7(a). The OAL acquires jurisdiction over a matter after it has been determined to be a contested case by an agency head. N.J.A.C. 1:1-3.2(a). A contested case is commenced in the State agency with appropriate subject matter jurisdiction. N.J.A.C. 1:1-3.1. DMAHS is the administrative agency within the Department of Human Services (DHS) that is charged with administering the Medicaid program. N.J.S.A. 30:4D-4. In her November 18, 2021 request for fair hearing, Petitioner stated that she was contesting the length of the penalty period. While she expressed concerns that this may affect her ability to receive services through the PACE program, she provided no notice from her PACE provider that services had been denied. In fact, when Petitioner requested the fair hearing on November 24, 2021, she had not yet begun to receive services through the PACE program. Then, despite Atlantic County's transfer penalty, and in advance of the fair hearing, Petitioner's PACE provider began to provide her with services. At the hearing, Petitioner did not dispute the transfer penalty. Rather, she disputed the January 1, 2022 effective date of her PACE enrollment, an issue she did not appeal.

Here, the matter transmitted as a contested case concerned the imposition of a thirty-two day transfer penalty. Atlantic County's October 26, 2021 notice confirmed her eligibility

for LTC Medicaid, it was not a determination of Petitioner's PACE enrollment or eligibility for services. Petitioner presented no evidence to dispute the November 1, 2021 date or the duration of the transfer penalty. To have this matter be decided on an issue that was not the basis of the determination letter is inappropriate.

For these reasons, I REVERSE the Initial Decision as the issue on appeal solely concerned the imposition of a thirty-two day penalty period and a November 1, 2021 eligibility date.

THEREFORE, it is on this 6th day of MAY, 2022,

ORDERED:

That the Initial Decision is hereby REVERSED; and

That the transfer penalty is upheld.



Jennifer Langer Jacobs, Director
Division of Medical Assistance
and Health Services