



Based upon my review of the record, I hereby ADOPT the Administrative Law Judge's recommended decision because it is in accordance with the Medicaid regulations governing resource eligibility. This matter arises from Morris County's January 31, 2022 determination that Petitioner was eligible for Medicaid benefits effective September 1, 2021 but with a thirty-four day penalty. Morris County also determined that Petitioner was not eligible for retroactive Medicaid for June, July and August due to excess resources, namely the equity value of an automobile.

Participation in the Medicaid program will be denied if the resources of an individual exceed \$2000 as of the first moment of the first day of the month. See N.J.A.C. 10:71-4.5. A "resource" is defined as "any real or personal property which is owned by the applicant . . . and which could be converted to cash to be used for his/her support and maintenance." See 20 C.F.R. § 416.1201(a) and N.J.A.C. 10:71-4.1(b). If the individual has the right, authority or power to liquidate the property, it is considered a resource. Ibid. A resource is "countable" for purposes of eligibility determinations if it is "available to the applicant/beneficiary or any person acting on his or her behalf." N.J.A.C. 10:71-4.1(c)(3) (emphasis added). Some resources are excludable. In the determination of resources, one automobile is totally excluded, regardless of value, "if it is used for transportation for the individual or a member of the individual's household." N.J.A.C. 10:71-4.42i. "Any other automobiles shall be considered to be non-liquid resources" and is counted as a resource for purposes of determining eligibility.

On or about March 10, 2021, Richard Miller was appointed guardian of Petitioner's property. On July 12, 2022, Miller filed a Medicaid application with Morris County on Petitioner's behalf. Petitioner owned two vehicles, a Toyota and a Corvette. Morris County considered the \$6,000 value of the Toyota when determining eligibility. Petitioner held this resource for the months of June, July and August. Consequently, he exceeded the \$2,000 resource maximum was not eligible for those months.

In Exceptions, Petitioner's counsel argues that the titles to the cars could not be located and therefore the resource was unavailable and should not be counted pursuant to N.J.A.C. 10:71-4.4. Miller testified that he looked for the title but did not obtain a duplicate title until June 28, 2021. While the ALJ found that Miller credibly testified to his efforts, there is no documentation in the record to support his testimony or provide a timeline of his attempts to obtain a duplicate title. Moreover, by his own logic, if Petitioner's Guardian held a duplicate title as a June 28, 2021, he certainly had the power to liquidate the asset at least as early as June 2021. I agree with the ALJ that the Petitioner, through his Guardian, had the right, power and authority to liquidate this asset during the months of eligibility, whether because he merely had to request a duplicate title or because he in fact held one.

The evidence in the record indicates that Petitioner had countable resources in excess of the \$2,000 limit for June, July and August 2021. The eligibility procedure is clearly set forth in the regulations, and there is simply no provision which permits a relaxation of the eligibility date so long as the countable resources exceed the maximum limit.

THEREFORE, it is on this 14<sup>th</sup> day of JUNE 2022,

ORDERED:

That the Initial Decision is hereby ADOPTED.

*Gregory Woods* OBO  
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Jennifer Langer Jacobs, Assistant Commissioner  
Division of Medical Assistance  
and Health Services