



matter. Procedurally, the time period for the Agency Head to render a Final Agency Decision is April 22, 2024, in accordance with an Order of Extension.

This matter arises from the September 30, 2023 termination of Petitioner's Aged, Blind, Disabled Medicaid benefits due to excess income. (R-5). The Hudson County Department of Family Services (Hudson County) determined that the combined monthly income of Petitioner and Petitioner's spouse, N.R., was \$2,057 which exceeded the limit of \$1,644 for a couple's eligibility. See Medicaid Communication No. 23-01. Specifically, Hudson County determined that the couple's monthly income was comprised of Petitioner's Social Security of \$886 per month and N.R.'s social security of \$1,191 per month. After subtracting a standard \$20 deduction the total countable unearned income was determined to be \$2,057 per month. (R-6).

The Initial Decision reversed the termination finding that Petitioner's monthly income included only Petitioner's Social Security income, and not that of N.R., who is separated from Petitioner and has permanently and continuously resided in Italy for several years. I agree.

Pursuant to N.J.A.C. 10:71-5.1(b), "[a]ll income, whether in cash or in-kind, shall be considered in the determination of eligibility, unless such income is specifically exempt under the provisions of N.J.A.C. 10:71-5.3." However, if a married applicant lives alone, their spouse's income is not considered in determining eligibility. N.J.A.C. 10:71-5.4(b)(1). In the case of an applicant/beneficiary couple, living together, the total amount of husband's and wife's countable income shall be combined and applied to the appropriate income eligibility standard for a couple. Such individuals will continue to have

their countable income combined **until they have been separated for a period of six months**. N.J.A.C. 10:71-5.4(b)(2) (emphasis added). See 24 CFR 435.602(a)(2)(iii) stating "When a couple ceases to live together, the agency must count only the income of the individual spouse in determining his or her eligibility, beginning the first month following the month the couple ceases to live together." See also C.D. v. Essex County Bd of Social Services, 2016 N.J. AGEN LEXIS 455 (June 7, 2016) affirming the denial of Medicaid benefits based on the conclusion that the Petitioner and her spouse resided together in the same household, evidenced by the use of a shared address, thereby exceeding the income eligibility criteria for Medicaid.

In the present matter, both the undisputed testimony and DOVE Detail Report performed by Hudson County verify that N.R. resides in Italy while Petitioner resides in New Jersey. (R-3, 4). While Petitioner and N.R. are legally married, they have not lived together for several years. Further, in contrast to C.D. v. Essex County Bd of Social Services, there is no evidence in the record that indicated Petitioner and N.R. do in fact reside together. Accordingly, in adherence to N.J.A.C. 10:71-5.4(b)(1), Petitioner's monthly countable income is the amount Petitioner receives from Social Security without the inclusion of N.R.'s income.

The ALJ further opines that N.R.'s Social Security check is deposited directly into their separate bank account, which Petitioner is not listed on, and that Hudson County did not present any proof demonstrating Petitioner has any ownership interest in N.R.'s Italian bank account. However, because Petitioner did not face termination for being over the resource limit, the potential availability of resources is not ripe for determination at this

time.

Therefore, the termination of the Petitioner's Medicaid benefits due to excess income is hereby reversed and sent back to Hudson County for further processing of Petitioner's application, specifically with respect to Petitioner's resource eligibility. Additionally, I find that within forty-five (45) days of this Final Agency Decision Hudson County shall re-establish a new line of eligibility retroactive to the termination date of September 30, 2023 to cover Petitioner during the processing of their eligibility.

THEREFORE, it is on this 15th day of APRIL 2024,

ORDERED:

That the Initial Decision is hereby ADOPTED with regard to Petitioner's income eligibility; and

That the matter is hereby RETURNED to Hudson County for further action of Petitioner's application.

*Gregory Woods* OBO JLJ

---

Jennifer Langer Jacobs, Assistant Commissioner  
Division of Medical Assistance and Health Services