

This matter arises from Morris County Office of Temporary Assistance's (Morris County) June 7, 2023 determination that Petitioner was eligible for Medicaid benefits beginning on May 2023. R-8. Petitioner submitted the initial Medicaid application on March 20, 2023, seeking retroactive coverage from February 2023. R-1. On April 24, 2023, Petitioner received a notice from Morris County that confirmed Petitioner's eligibility date as February. R-3. However, Morris County claimed this notice went out in error which resulted in a second application being filed. The revised notice sent on June 7, 2023 stated that the Petitioners eligibility date was changed to May 2023 because of a subsequent determination that they were in possession of resources over \$2,000.00. R-8. Specifically, the notice stated that the Petitioner was not eligible for retroactive benefits from February 2023 because of a small cash value life insurance policy. A timely appeal was filed on the Petitioner's behalf, asserting that an earlier eligibility date should be granted. Based upon my review of the record, I hereby ADOPT the findings and conclusions of the Administrative Law Judge (ALJ).

N.J.A.C. 10:71-4.5(c) states that participation in the Medicaid Only program will be denied if the resources of an individual exceed \$2,000. In determining resource eligibility in accordance with N.J.A.C. 10:71-4.5(c), a resource must be "available." A resource shall be considered available to an individual when:

The person has the right, authority or power to liquidate real or personal property or his or her share of it;...

[N.J.A.C.10:71-4.1(c).]

Resource eligibility is determined as of the first moment of the first day of the month. 20 C.F.R. § 416.1207(a) and N.J.A.C. 10:71-4.1(e). Additionally, any resource that is not specifically excluded by regulation "shall be considered a countable resource

for the purpose of determining Medicaid Only eligibility.” N.J.A.C. 10:71-4.2(a). N.J.A.C. 10:71-4.4 (b9) and N.J.A.C. 10:70-5.2 (h9) allow for the exclusion of funds up to \$1,500.00 for applicants under the Age, Blind and Disabled Program to allow holders of life insurance policies to apply such funds for burial, cremation, or funeral arrangement expenses. Similarly, Medicaid Communication 18-08 dated September 17, 2018, clarifies that such funds may be excluded from countable resources if the funds are designated specifically for burial and are not co-mingled with other non-burial assets.

In February 2023, the Petitioner had a total of \$1,873.33 in bank accounts. ID at 4. In March 2023 this amount was \$1,210.52, and in April this amount was \$914.64. Ibid. None of these amounts exceeds the maximum resource limit of \$2,000.00. After the Medicaid application was filed, the Petitioner’s son submitted a copy of a small life insurance policy valued at \$1,558.57, and a copy of a contract with Stellato Funeral Home for funeral services. Ibid. At the fair hearing, Petitioner’s representative stated that the sole use of this policy was to partially cover funeral costs. Ibid.

In the Initial Decision, the Administrative Law Judge (ALJ) found that it is undisputed evidence that the Petitioner was forthcoming with their income and assets during the “spend-down” period, including the disclosure of a small life insurance policy valued at \$1,558.78. Id. at 3. Morris County determined that the cash value of the life insurance policy should be included as part of the Petitioner’s resources and accordingly found that Petitioner’s eligibility date should be May 2023, three months after they were seeking eligibility. Id. at 5. The ALJ found that in doing so, Morris County disregarded Medicaid Communication 18-08 regarding how such resources should be interpreted. Ibid. The ALJ found that in accordance with Medicaid Communication 18-08, \$1,500.00

in cash value of the life insurance policy should have been deemed exempt as its sole intended use was for burial expenses. Id. As such, only a de minimus amount of excess funds in the amount of \$58.78 should have been considered with the petitioner's available resources for the months of February 2023 through April 2023.

The Initial Decision found that if Morris County properly applied the exception set forth in Medicaid Communication 18-08, Petitioner would be financially eligible for Medicaid and entitled to retroactive eligibility for the aforementioned period of February 2023 through April 2023. I agree with the Initial Decision. It is well established that funds from life insurance policies, specifically earmarked for burial expenses, are exempt from being included in a resource determination.

Thus, for the reasons set forth above, I hereby ADOPT the Initial Decision in this matter and FIND that the eligibility date for Petitioner's Medicaid benefits is February 1, 2023.

THEREFORE, it is on this 17th day of June 2023,

ORDERED:

That the Initial Decision is hereby ADOPTED.

Gregory Woods OBO JLJ

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