



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. HMA 01779-24

D.M.

Petitioner,

v.

Monmouth County Division of
Social Services

Respondent.

Medicaid Only
Excess Resources Appeal
N.J.A.C. 10:71-4

STATEMENT OF THE CASE

Respondent denied petitioner's Medicaid Only application due to excess resources under N.J.A.C. 10:71-4.5.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

I.

- ☒ I **FIND** that petitioner or petitioner's representative is **AUTHORIZED** to pursue this appeal; therefore, I **CONCLUDE** that standing has been established.
- ☐ I **FIND** that petitioner or petitioner's representative is **NOT AUTHORIZED** to pursue this appeal; therefore, I **CONCLUDE** that standing has not been established.

II.

I **FIND** that petitioner's **available and countable resources** total \$0
(N.J.A.C. 10:71-4.1, -4.2; see also N.J.A.C. 10:71-4.6 and -4.8 for married individuals).
The applicable **resource eligibility standard** is \$2,000 (N.J.A.C. 10:71-4.5).
Petitioner's **date of resource eligibility** is 10/01/2023 (N.J.A.C. 10:71-4.5) (fill in if
resources under applicable standard).

III.

☐ I **CONCLUDE** that petitioner is over the applicable resource limit and is
therefore resource **INELIGIBLE** for Medicaid Only benefits under N.J.A.C.
10:71-4.5.

☒ I **CONCLUDE** that petitioner is not over the applicable resource limit and is
therefore resource **ELIGIBLE** for Medicaid Only benefits as of 10/01/2023
(fill in date of eligibility) under N.J.A.C. 10:71-4.5.

ADDITIONAL FINDINGS OF FACT/CONCLUSIONS OF LAW

Petitioner relies on AM v. DMAHS, OAL Dkt. No. HMA 8525-05, 2006 N.J. Agen. Lexis.
586 Final Decision (June 26, 2006) that concluded a Special Needs Trust of which
petitioner was a beneficiary is an excludable resource pursuant to N.J.A.C. 10:71-4.4
(b)(6), which states the value of resources which are not accessible to an individual
through no fault of his or her own are excludable. Under the Special Needs Trust
petitioner was not the grantor, the trust was not funded by any of the petitioner's assets,
a trustee other than petitioner has the sole discretion to disburse the trust funds,
petitioner could not compel the distribution of the corpus or income and petitioner was
not the beneficiary of any remaining funds upon the trust's termination. Under these
facts there is no obligation to meet all of the criteria of N.J.A.C. 10:71-4.11 (g) as
respondent asserts in order for the assets to be excludable. The intent of the regulation
is to reach assets of the individual applying for Medicaid when they have been placed
in Trust by that individual or someone acting with legal authority on behalf of the
individual. See also A-1271-22 - W.F. vs. Morris County Department of Family
Services Division of Medical Assistance and Health Services (because a court-ordered
trust reformation by which the applicant's assets (see continuation sheet attached)

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were put into new trusts for the benefit of his children was not a "gift" directed by the applicant but was instead approved by a chancery judge at the behest of the children's guardian ad litem to satisfy the applicant's child support obligations under a prior divorce judgment).

ORDER

I **ORDER** that:

- ☐ Petitioner's appeal is **DISMISSED** because petitioner has no standing.
- ☐ Petitioner is resource **INELIGIBLE** for Medicaid Only benefits under N.J.A.C. 10:71-4.5.
- ☒ Petitioner is resource **ELIGIBLE** for Medicaid Only benefits as of 10/01/2023 under N.J.A.C. 10:71-4.5.

I **FILE** this initial decision with the **ASSISTANT COMMISSIONER OF THE DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES**. This recommended decision is deemed adopted as the final agency decision under 42 U.S.C. § 1396a(e)(14)(A) and N.J.S.A. 52:14B-10(f). The **ASSISTANT COMMISSIONER OF THE DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES** cannot reject or modify this decision.

If you disagree with this decision, you have the right to seek judicial review under New Jersey Court Rule 2:2-3 by the Appellate Division, Superior Court of New Jersey, Richard J. Hughes Complex, PO Box 006, Trenton, New Jersey 08625. A request for judicial review must be made within 45 days from the date you receive this decision. If you have any questions about an appeal to the Appellate Division, you may call (609) 815-2950.

06/06/2024

DATE

Date Record Closed:

Date Filed with Agency:

Date Sent to Parties:



MARY ANN BOGAN

_____, ALJ

05/20/2024

06/06/24

06/07/24

APPENDIX

Witnesses

For Petitioner:

None

For Respondent:

None

Exhibits

For Petitioner:

- P-1 NJFC MLTSS Denial Letter, dated January 8, 2024
- P-2 Order of Judgment, Monmouth County Superior Court Chancery Division Probate Part, filed and dated October 28, 2005
- P-3 Refunding Bond and Release, dated January 24, 2006
- P-4 Deed, dated March 10, 2006
- P-5 Settlement Statement, dated December 24, 2020
- P-6 Promissory Note, dated August 15, 2020
- P-7 Bank of America Bank Summary, dated October 28, 2005
- P-8 Verified Complaint, Superior Court Chancery Division Probate Part, Monmouth County, filed and dated September 12, 2005

For Respondent:

- R-1 Initial letter sent to D.M. from Monmouth County Board of Social Services, dated October 23, 2020
- R-2 Renewal notice sent to D.M. from Monmouth County Board of Social Services, dated April 21, 2023
- R-3 Returned completed Renewal with documents, received on May 9, 2023
- R-4 Initial RFI sent to D.M. from Monmouth County Board of Social Services, dated June 1, 2023
- R-5 Documents received on June 26, 2023 in response to RFI, dated June 1, 2023
- R-6 Termination letter sent to D.M. from Monmouth County Board of Social Services, dated August 17, 2023
- (see continuation sheet)

APPENDIX CONTINUATION SHEET

- R-7 Second RFI sent to D.M. from Monmouth County Board of Social Services, dated August 17, 2023
- R-8 Documents received on October 26, 2023, including reforming from father's Last Will and Testament to SNT and SNT trust corpus
- R-9 MES System showing D.M. was opened from September 1, 2023 – September 30, 2023
- R-10 Reconsideration Letter (due to over resource) sent to D.M. from NJ Family Care, dated January 10, 2024
- R-11 N.J.A.C. 10:71-2.2
- R-12 Letter to J.M. from State of New Jersey, Department of Health, dated August 20, 2020