State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION
OAL DKT. NO. HMA 04084-2024
AGENCY DKT. NO. N/A

J.I.,
Petitioner,
v.
ATLANTIC COUNTY DEPARTMENT OF FAMILY AND COMMUNITY DEVELOPMENT,
Respondent.

J.I., pro se

Alysia Remaley, Esq., Assistant County Counsel, for respondent Atlantic County (Lynne Hughes, County Counsel)

Record Closed: September 5, 2024 Decided: September 26, 2024

BEFORE **CARL V. BUCK III,** ALJ

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

J.I. (petitioner), appeals the determination of his Medicaid ineligibility as determined by the Atlantic County Department of Family And Community Development ("County" or "CWA"). Petitioner had been scheduled for review of his financial eligibility for services. During his review by the County it was determined that petitioner is not eligible for nursing care services as his income exceeds the number promulgated for eligibility.

Petitioner asserts that the County's determination is erroneous as he has a Qualified Income Trust (QIT) to accommodate his income. On February 28, 2024 petitoner was advised that he was ineligible for New Jersey FamilyCare/ Medicaid services as "Individual's income exceeds the standard. NJAC 10:71:5.6" Petitioner filed an appeal of the County's determination on or about March 11, 2024. The appeal was then transferred to the Office of Administrative Law on March 21, 2024, for determination as a contested case. N.J.S.A. 52:14B-1 to -15; N.J.S.A. 52:14F-1 to -13.

The matter was originally scheduled to be heard on August 29, 2024, but was adjourned at the petitioner's request to allow more time to prepare for the hearing. Petitioner stated he had not received the packet from the County and presumed that the packet went to his attorney – who petitioner had recently fired. The matter was rescheduled for September 4, 2024, at which time the hearing took place remotely, via the Zoom communications platform. The record closed on September 5, 2024.

FACTUAL DISCUSSION

Mary Lange (Lange), Administrative Supervisor in the Medicaid Long Term Care Unit, testified that she has been with the County for approximately twelve years and had been the administrative supervisor of the Long-Term Care (LTC) unit for approximately two years. She is familiar with petitioner's Medicaid issue on appeal.

Petitioner's Medicaid was up for renewal and as part of the renewal process, his income is reviewed to determine his current income and ny changes to his condition. Lange forwarded a letter, dated January 22, 2024, to petitioner requesting information regarding his purported reneway. (R-1, pages 2.)

In petitioner's case, his gross monthly income was determined to be $4,748.18 which was the sum of his gross monthly Social Security ($2,728) and his pension ($2,020.18). (R-1, page 7.) Anything above that amount required a Qualified Income Trust (QIT). Per Medicaid communication No. 14-15 (R-1, p. 17-19.)

Per Medicaid communication No. 24-01 the income cap for an individual is $2,829. (R-1, page 11.) In going through the PR-3 Form that was used to calculate

petitioner's required "cost share", Lange stated that they took the total gross income, subtracted the PNA ($2,742), bank fees for the QIT ($1.00), and health care premium ($38.57), which left a total exempt income of $2,781.57. This amount was subtracted from petitioner's total gross income, leaving an available income of $1,882.61 which was calculated to be petitioner's "cost share" in 2023 in accordance with the QIT guidelines. (R-1, pages 17–20.)

A PR-3 calculation form was prepared by Lange. (R-1, p.20.) This showed that petioner's cost share to be paid to New Jersey Family Care was $1,882.62. This was not paid. Petitioner stated he had a QIT established in 2019. (R-1, p. 34-39.) The QIT however was not perfected and did not reflect petitoner's pension as a funding source. Therefore, the QIT was not created properly, the QIT was not funded properly, and the petitioner was over-income and ineligible for benefits.

J.I. testified that he is having numerous medical/ health issues. He would die if he had to go home. He currently cannot live alone and needs assistance. He had a QIT but was unaware of the deficiencies.

The facts in this case are for the most part undisputed. Accordingly, I **FIND** the following as **FACT**:

Petitioner is a Medicaid recipient. In order to financially qualify for Medicaid, a QIT was set up on his behalf. As a Medicaid recipient, he is required to contribute to the cost of his care in order to receive Long-Term Services and Supports. (R-1.)

Petitioner currently receives a monthly pension in the amount of $2,020.18 and Social Security in the amount of $2,728 the aggregate of which is $4,748.18. (R-1, pages 8-10.)

Under Medicaid Communication No. 23-01, individuals living in their own home are provided a monthly maintenance needs allowance of $2,742. Unless otherwise

excepted, all monies over and above that amount are required to be paid to the State as part of the recipient's "cost share."

In petitioner's case, the monthly fee to be paid was $1,882.61 to New Jersey Family Care. This amount was not paid. Additionally the QIT did not reflect petioner's pension as funding source. The QIT was also not funded properly and was therefore invalid.

No documentation was provided by the petitioner that would support an allowable exemption or deduction to offset his income or other justification for the erroneous QIT.

LEGAL DISCUSSION

Medicaid is a joint federal and state program "designed to provide medical assistance to persons whose income and resources are insufficient to meet the costs of necessary care and services." Atkins v. Rivera, 477 U.S. 154, 156 (1986). The program is a cooperative federal-state endeavor in which the federal government provides "financial assistance to States that choose to reimburse certain costs of medical treatment for needy persons." Harris v. McRae, 448 U.S. 297, 301 (1980). "In return, participating States are to comply with requirements imposed by the [program] and by the Secretary of Health and Human Services." Atkins, 477 U.S. at 157. Each state must develop a plan that includes "reasonable standards . . . for determining eligibility for and the extent of medical assistance . . . [that is] consistent with the objectives" of the Medicaid program. 42 U.S.C.A. § 1396a(a)(17)(A). An applicant is entitled to Medicaid benefits "if he fulfills the criteria established by the State in which he lives." Schweiker v. Gray Panthers, 453 U.S. 34, 36-37 (1981). By enacting the New Jersey Medical Assistance and Health Services Act, N.J.S.A. 30:4D-1 to -19.1, New Jersey has elected to participate in the Medicaid program. The Department of Human Services is the agency responsible for administering the Medicaid program in New Jersey. See N.J.S.A. 30:4D-3c.

Pursuant to 42 C.F.R. 435.725 and 425.726, a cost-share is calculated for Medicaid beneficiaries receiving MLTSS services. N.J.A.C. 10:71-5.7. Income which remains after applying allowable deductions, if any, is paid to the State or collected by the recipient's service provider as a contribution to offset the cost of the individual's long-term care needs. 42 C.F.R. 435.726. In making these calculations, a personal responsibility (PR) form is used for individuals eligible for MLTSS services which details the individual's available income and applicable deductions to determine if any remaining funds are available as a monthly cost-share.

In this case, the respondent in calculating petitioner's cost-share, arrived at an amount of $1,882.61 per month to New Jersey Family Care. This amount was not paid as required.

Also, the QIT provided by petitioner was faulty in that it did not have petitioner's pension as a funding source. Nor were deposits correctly made.

There is no question that petitioner is in a difficult situation and his argument was compelling that he needs these services. Unfortunately, as a condition of receiving these Medicaid benefits, he is required to contribute to the cost of this care. This is a formulatic process in which the respondent is required to follow as an administrator of the Medicaid program. 42 C.F.R. 435.726 Such requirement is not discretionary on the respondent's part. He has not done so. Nor has the QIT provided been drafted correctly or funded correctly.

With the above in mind as applied to the instant matter, after determining his total exempt income, I **CONCLUDE** that respondent properly determined petitioner's cost share for receipt of MLTSS to be $1,882.61.

I further **CONCLUDE** that petitioner did not make these payments and did not correctly fund his QIT and is **THEREFORE** ineligible for these Medicaid payments.

ORDER

It is hereby **ORDERED** that Atlantic County Department of Family and Community Development's determination of petitioner's ineligibility for Medicaid benefits is **AFFIRMED**, and that petitioner's appeal is **DISMISSED**.

I **FILE** my initial decision with the **ASSISTANT COMMISSIONER OF THE DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES** for consideration. This recommended decision may be adopted, modified, or rejected by the **ASSISTANT COMMISSIONER**, who is authorized to make a final decision in this case. If the **ASSISTANT COMMISSIONER** does not adopt, modify, or reject this decision within forty-five days, and unless such time limit is otherwise extended, this recommended decision becomes a final decision under N.J.S.A. 52:14B-10(c).

Within seven days from the date on which this recommended decision is mailed to the parties, any party may file written exceptions at **ASSISTANT COMMISSIONER, DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES, Mail Code #3, PO Box 712, Trenton, New Jersey 08625-0712**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.

September 26, 2024
DATE

CARL V. BUCK, III, ALJ

Date Received at Agency: _____

Date Mailed to Parties: _____

CVB/tat

APPENDIX

WITNESSES

For petitioner

J.I.

For respondent

Mary Lange

EXHIBITS

For petitioner

None

For respondent

R-1 Fair Hearing Packet