



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. HMA 02874-2024

J.A.,

Petitioner,

v.

**HUDSON COUNTY DEPARTMENT OF
FAMILY SERVICES,**

Respondent.

J.A., petitioner, pro se

Kennesha Thomas, Family Services Eligibility Worker, for respondent under
N.J.A.C. 1: -1-5.4(a)(3)

Record Closed: May 21, 2024

Decided: May 23, 2024

BEFORE R. TALİ EPSTEIN, ALJ:

STATEMENT OF THE CASE

Is petitioner eligible for Medicaid under the Aged, Blind, and Disability (ABD) program when his unearned income exceeds the income limit? No. Under N.J.A.C. 10:72-4.1 petitioner is income ineligible for ABD Medicaid.

PROCEDURAL HISTORY

On January 29, 2024, respondent terminated petitioner's Medicaid upon renewal because petitioner's unearned income exceeded the applicable income limit.

Petitioner appealed the termination.

The Division of Medical Assistance and Health Services (DMAHS) transmitted this case to the Office of Administrative Law (OAL), where it was filed on March 4, 2024, as a contested case under the Administrative Procedure Act, N.J.S.A. 52:14B-1 to-15, and the act establishing the OAL, N.J.S.A. 52:14F-1 to-13, for a hearing under the Uniform Administrative Procedure Rules, N.J.A.C. 1:1-1.1 to -21.6.

I held the hearing on May 21, 2024, and closed the record.

FINDINGS OF FACT

Based on the testimony provided and my assessment of its credibility, together with the documents submitted and my evaluation of their sufficiency, I **FIND** the following as **FACT**:

Petitioner is the applicant and has the authority to pursue this appeal.

On or about July 28, 2023, respondent provided petitioner with a Medicaid renewal packet under the NJ FamilyCare Aged, Blind, and Disabled (ABD) program. (Respondent, Exhibit A.) Petitioner is a household of one.

Petitioner completed the renewal application noting, among other things, that he received monthly social security benefits in the amount of \$2,042. Petitioner answered "No" to the question: Does the Beneficiary need "nursing home like" services, Long Term and Supports, i.e., MLTSS (Medicaid Managed Long Term Services and Supports). (Respondent, Ex. C.)

Respondent received petitioner's completed renewal application on August 14, 2023 and evaluated petitioner's case to determine his eligibility under the Medicaid programs administered by respondent.

Respondent confirmed that, at the time petitioner submitted his Medicaid renewal application, petitioner was receiving monthly social security benefits in the net amount of \$2,042. (Respondent Ex., E.) The ABD program income limit in 2023 was \$1,215. Respondent calculated petitioner's countable unearned income at \$2,022 (which included a \$20 disregard). (Respondent Ex., D.) Petitioner's unearned income thus exceeded the ABD program limit by \$807 and respondent was not eligible for continued ABD program benefits. In accordance with the selection petitioner made in his renewal application (confirming that he did not need "nursing home like services," etc.), petitioner was not evaluated for the MLTSS program.

By letter dated January 29, 2024, respondent notified petitioner of its eligibility determination and that petitioner's Medicaid coverage would end on February 29, 2024. The notice clearly stated that the basis for petitioner's termination from NJ FamilyCare benefits was petitioner's income, which exceeded the limit under N.J.A.C. 10:72.4.1. The notice also advised petitioner that he may be eligible for a Medicare Savings Program and provided him with information for contacting the Department of Human Services, Division of Aging Services (the Department) if he did not receive a letter from the Department within 10 days. (Respondent, Ex. B.)

Following his termination from the ABD program, months after his Medicaid case was closed, petitioner inquired whether he could switch the response in his July 2023 renewal application regarding long term nursing services from "No" to "Yes" and be evaluated for MLTSS eligibility. (P-3.) Respondent reiterated its previous guidance to

petitioner to reapply and seek MLTSS benefits. (P-2, P-4.) Respondent declined to do so. At the fair hearing, petitioner conceded that respondent's over income eligibility determination was correct. Further, petitioner acknowledged that he must submit a new application to be considered for MLTSS eligibility.

DISCUSSION AND CONCLUSIONS OF LAW

Congress created the Medicaid program under Title XIX of the Social Security Act. 42 U.S.C. §§1396 to 1396w. The federal government funds the program that the states administer. Once the state joins the program, it must comply with the Medicaid statute and federal regulations. Harris v. McRae, 448 U.S. 297, 300 (1980). New Jersey participates in Medicaid through the New Jersey Medical Assistance and Health Services Act (Act). N.J.S.A. 30:4D-1 to -19.5.

Under the Act's authority, the Commissioner of the Department of Human Services (DHS) promulgated regulations implementing New Jersey's Medicaid programs to explain each program's scope and procedures, including income and resource eligibility standards. See, e.g., N.J.A.C. 10:71-1.1 to -9.5 (Medicaid Only); N.J.A.C. 10:72-1.1 to -9.8 (Special Medicaid Programs); E.S. v. Div. of Med. Assistance and Health Servs., 412 N.J. Super. 340, 347 (App. Div. 2010).

The Act also established the Division of Medical and Health Services (DMAHS) within the DHS to perform the administrative functions concerning Medicaid program participation. Bergen Pines County Hosp. v. New Jersey Dep't of Human Serv., 96 N.J. 456, 465 (1984); see also N.J.S.A. 30:4D-4, -5.

County welfare agencies (CWA), such as respondent, assist [DMAHS] in processing applications for Medicaid and determining whether applicants have met the income and resource eligibility standards." Cleary v. Waldman, 959 F. Supp. 222, 229 (D.N.J.1997), aff'd, 167 F.3d 801 (3d Cir.), cert. denied, 528 U.S. 870 (1999). Significantly, an applicant bears the burden of establishing eligibility for Medicaid

benefits. D.M. v. Monmouth Cnty. Bd. of Soc. Servs., HMA 6394-06, Initial Decision (April 24, 2007), adopted, Dir. (June 11, 2007), <http://njlaw.rutgers.edu/collections/oal/>.

N.J.A.C. 10:72-2.3(a) requires respondent to verify all eligibility factors. N.J.A.C. 10:72-4.1 sets the income limits for Medicaid for aged, blind, and disabled persons. Under N.J.A.C. 10:72-4.4, respondent determines income eligibility under the ABD program using the income eligibility standards within N.J.A.C. 10:71-5.1 to -5.9, with certain exceptions. Petitioner's arguments notwithstanding, the ABD program income limit is not discretionary.

Here, the parties do not dispute, and I found, that petitioner's income exceeded the program income limit of \$1,215. See N.J.A.C. 72-4.1(a) (explaining that the federal poverty guidelines control). Therefore, I **CONCLUDE** that petitioner is income ineligible for ABD Medicaid benefits under N.J.A.C. 72-4.1(a). I further **CONCLUDE** that respondent's eligibility determination was properly made.

ORDER

Based on my findings of fact and conclusions of law, I **ORDER** that petitioner is ineligible for ABD Medicaid benefits under N.J.A.C. 72-4.1(a) and his appeal is hereby **DISMISSED**.

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 of the date you receive this decision. If you have any questions about an appeal to the Appellate Division, you may call (609) 815-2950.

May 23, 2024

DATE



R. TALI EPSTEIN, ALJ

Date Received at Agency:

May 29, 2024

Date E-Mailed to Parties:

May 29, 2024

cc

APPENDIX

Witnesses

For Petitioner:

J.A.

For Respondent:

Kennesha Thomas

Exhibits

For Petitioner:

- P-2 E-mail chain between petitioner and respondent, 2/7/24
- P-3 E-mail chain between petitioner and respondent, 3/29/24
- P-4 E-mail chain between petitioner and respondent, 4/18/24

For Respondent:

- Exhibit A Renewal Application, 7/28/23
- Exhibit B Termination Letter, 1/29/24
- Exhibit C Completed ABD Renewal Application, received 8/14/23
- Exhibit D ABD Income Worksheet, 1/25/24
- Exhibit E Dove Detail Report