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Assistant Commissioner

STATE OF NEW JERSEY
DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE
AND HEALTH SERVICES

L.J.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE

AND HEALTH SERVICES AND

CUMBERLAND COUNTY

DIVISION OF SOCIAL SERVICES,

RESPONDENTS.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 05405-23

As Assistant Commissioner for the Division of Medical Assistance and Health Services (DMAHS), I have reviewed the record in this case, including the OAL case file, the documents in evidence, and the Initial Decision in this matter. Neither Party filed exceptions. Procedurally, the time period for the Agency Head to render a Final Agency Decision is September 19, 2024, in accordance with an Order of Extension.

This matter arises regarding the Cumberland County Division of Social Services' (Cumberland County) May 25, 2023 determination that Petitioner was eligible for Medicaid benefits as of November 1, 2022. The issue presented here is whether Cumberland County correctly determined Petitioner's Medicaid eligibility date.

N.J.A.C. 10:71-4.10 dictates that an individual shall be ineligible for institutional-level services through the Medicaid program if he or she (or his or her spouse) has disposed of assets at less than fair market value at any time during or after the 60 months' period immediately before:

1. In the case of an individual who is already eligible for Medicaid benefits, the date the individual becomes an institutionalized individual; or

2. In the case of an individual not already eligible for Medicaid benefits, the date the individual applies for Medicaid as an institutionalized individual.

(b) The following definitions shall apply to the transfer of assets:

1. Individual means:

- i. The individual him or herself who is applying for benefits;
- ii. The individual's spouse;
- iii. A person, including a court or administrative body, with legal authority to act in place of or on behalf of the individual or the individual's spouse;
- iv. Any person including a court or administrative body, acting at the direction or upon the request of the individual or the individual's spouse.

Both liquid and nonliquid resources shall be considered in the determination of eligibility, unless such resources are specifically excluded under the provisions of N.J.A.C. 10:71-4.4(b).

For eligibility in the Medicaid Only Program, total countable resources are subject to the following limits. (See N.J.A.C. 10:71-4.1(b) regarding definition of resources,

N.J.A.C. 10:71- 4.2 regarding countable resources, and N.J.A.C. 10:71-4.8 regarding resources of a couple when one member is applying for Medicaid for institutional services.) N.J.A.C. 10:71-4.5 (a).

1. Resource eligibility is determined as of the first moment of the first day of the month. Changes in the amount of countable resources subsequent to the first moment of the first day of the month shall not affect eligibility.

2. In the case of checking accounts, the balance as of the first moment of the first day of the month shall be reduced by the amount of any checks which have been drawn on the account but which have not yet cleared the financial institution.

Resource maximum for an individual: participation in the program shall be denied or terminated if the total value of an individual's resources exceeds \$2,000. N.J.A.C. 10:71-4.5 (c).

Under N.J.A.C. 10:71-4.11, in the case of a revocable trust: the entire corpus of the trust shall be counted as a resource available to the individual; any payments from the trust made to or for the benefit of the individual shall be counted as income (unless otherwise excludable, see N.J.A.C. 10:71-5.3); and any payments from the trust which are not made to or for the benefit of the individual shall be considered assets disposed of for less than fair market value (see N.J.A.C. 10:71-4.

On December 10, 2021, Petitioner, who is under the guardianship of the Office of the Public Guardian (OPG), applied for Medicaid seeking retroactive benefits beginning September 2021 (J-3). On May 25, 2023, Cumberland County approved Petitioner's Medicaid application effective November 1, 2022, based on the spending down of petitioner's combined assets and subject to a 127-day penalty period. (R-1).

Petitioner, through the OPG, appealed Cumberland County's determination. OPG only contested the effective date and did not contest the imposition of the transfer penalty of 127 days.

The Administrative Law Judge (ALJ) found that Cumberland County's position that November 1, 2022 is sound as the Trust in question contained \$47,806.46 which was revocable, and contemplated payments for the benefit of Petitioner. ID at 8. The Trust was spent down in October 2022; thus, pursuant to N.J.A.C. 10:71-4.1 (e), the first month Petitioner was eligible for MLTSS benefits was November 1, 2022. Ibid.

Per Medicaid Eligibility Worksheet, on May 1, 2022, Petitioner's total countable resources were \$25,059.22, with liquid resources of \$22,298.76 and with nonliquid resources of \$2,760, exceeding the allowable \$2,000 nursing home limit. (R-16). The funds were spent down during October, 2022. (R-17). Petitioner's combined total resources were \$1,863.20 on November 1, 2022. Ibid.

Accordingly, and based upon my review of the record and for the reasons set forth above, I concur with the Initial Decision that Petitioner's spouse transferred \$47,806.46 from Bank of America for less than fair market value. Cumberland County correctly determined Petitioner's eligibility date for MLTSS benefits effective November 1, 2022 when Petitioner's funds were spent down in October 2022.

Thus, I hereby ADOPT the Initial Decision.

THEREFORE, it is on this 19th day of SEPTEMBER 2024,

ORDERED:

That the Initial Decision is hereby ADOPTED.



Gregory Woods, Assistant Commissioner
Division of Medical Assistance and Health Services