



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. HMA 07272-24

AGENCY DKT. NO. N/A

M.M.,

Petitioner,

v.

**BURLINGTON COUNTY BOARD OF
SOCIAL SERVICES,**

Respondent.

M.M., petitioner, pro se

Edward Bittle, Paralegal Specialist, for respondent pursuant to N.J.A.C. 1:1-5.4(a)(3)

Record Closed: July 17, 2024

Decided: August 7, 2024

BEFORE **KIMBERLEY M. WILSON**, ALJ:

STATEMENT OF THE CASE

Petitioner, M.M., appeals the determination of the respondent, Burlington County Board of Social Services (Agency), finding her and her adult child¹ ineligible for New

¹ M.M.'s daughter has open medical coverage from the State, and the Agency's finding that she was ineligible for FamilyCare Medicaid benefits did not affect the existing State medical coverage.

Jersey FamilyCare Medicaid benefits because her income exceeds the maximum allowable limit.

PROCEDURAL HISTORY

On or around January 10, 2024, M.M. provided the Agency a FamilyCare redetermination application (Application) to participate in the program. On or around May 7, 2024, the Agency advised M.M. that her FamilyCare Medicaid benefits would be terminated because her income exceeded program limits. (R-1, Ex. E.) On May 20, 2024, M.M. requested a fair hearing. The New Jersey Division of Medical Assistance and Health Services (DMAHS) transmitted the matter to the Office of Administrative Law (OAL), where it was filed as a contested case on May 29, 2024. N.J.S.A. 52:14B-1 to -15; N.J.S.A. 52:14F-1 to -13.

The hearing was held on July 17, 2024, and the record closed that day.

FACTUAL DISCUSSION AND FINDINGS

The following **FACTS** are not in dispute, and I so **FIND**:

1. On or around January 10, 2024, M.M. submitted the Application to the Agency. (R-1, Ex. A.) The Application was processed on May 4, 2024. (Id., Ex. B.)
2. When the Application was processed in May 2024, the Agency relied on information from an income verification report to determine M.M.'s income. (Id., Ex. C.) M.M.'s income for the month preceding the Application processing date was as follows:

Pay date	Hours per pay period	Amount paid
April 12, 2024	27.8	\$511.79
April 19, 2024	20.1	\$371.11

April 26, 2024	30.2	\$555.38
May 3, 2024	40.4	\$748.85

The total amount of income for this period was \$2,187.13. (Ibid.)

3. The Agency input this information into its computer system and determined that M.M.'s total monthly earned income was \$2,369. (Id., Ex. D.) The system determined that M.M. was over the maximum income limit. (Ibid.)
4. On or around May 7, 2024, the Agency sent M.M. a letter advising her that her FamilyCare Medicaid benefits for her and her daughter would be terminated. (Id., Ex. E.)

Testimony

For respondent:

Edward Bittle (Bittle), paralegal specialist, testified that when the Agency received the Application in December 2023, the information that the Agency had regarding M.M.'s income was a December 2023 paystub and her W-2s. When the Application was processed in May 2024, the Agency obtained M.M.'s income information from Equifax, an income verification program. The total income amount was divided by four for a weekly pay amount and then multiplied by 4.333. Her total monthly income was determined to be \$2,369.

The monthly income limit for the FamilyCare Medicaid program for single adults and parents is \$2,351. (R-1, Ex. H.) When the Agency input this information into its portal, the member eligibility report indicated that M.M.'s income was over the federal poverty limit. (Id., Ex. D.)

For petitioner:

M.M. is a cancer patient. She testified that Vanessa S. Jackson, a paralegal at South Jersey Legal Aid Services, Inc., sent her an email advising her that the Agency approved the Application for FamilyCare Medicaid benefits. (P-1.)² M.M. acknowledged that Jackson did not work for the Agency and that she never received any correspondence from the Agency directly that she would be receiving FamilyCare Medicaid benefits.

M.M. wants the FamilyCare Medicaid benefits to maintain her health insurance.

Factual findings

It is the obligation of the fact finder to weigh the credibility of the witnesses before making a decision. Credibility is the value that a fact finder gives to a witness' testimony. Credibility is best described as that quality of testimony or evidence that makes it worthy of belief. "Testimony to be believed must not only proceed from the mouth of a credible witness but must be credible in itself. It must be such as the common experience and observation of mankind can approve as probable in the circumstances." In re Estate of Perrone, 5 N.J. 514, 522 (1950). To assess credibility, the fact finder should consider the witness' interest in the outcome, motive, or bias. "A trier of fact may reject testimony because it is inherently incredible, or because it is inconsistent with other testimony or with common experience, or because it is overborne by other testimony." Congleton v. Pura-Tex Stone Corp, 53 N.J. Super. 282, 287 (App. Div. 1958).

Having had the opportunity to hear the witnesses and review the documentation presented by all parties, I accept Bittle's testimony as credible. Bittle's testimony was direct and consistent, particularly as it pertained to the Agency's review of M.M.'s Application and determination that her monthly income exceeded federal poverty limits. I

² The text of this email is as follows: "Please be advised that I have been able to resolve our matter. I contacted the [Agency] and asked them to recalculate your income and you and your child qualify for the ACA Medicaid. We just need to withdraw the far [sic] hearing that is scheduled for July 17, 2024 so that they can reinstate your Medicaid without any lapse of time. Please advise if you are okay to withdraw the hearing and I will forward the form [f]or your signature."

also find portions of M.M.'s testimony credible, as she acknowledged that she never received any correspondence from the Agency that the Application was approved.

Accordingly, I **FIND** the following additional **FACTS**:

1. When the Application was processed in May 2024, the Agency obtained M.M.'s income information from Equifax. The total income amount was divided by four for a weekly pay amount and then multiplied by 4.333. The Agency determined that M.M.'s total monthly income was \$2,369.
2. The income limit for the New Jersey FamilyCare Medicaid program for single adults and parents is \$2,351 in monthly income.
3. The Agency determined that M.M.'s monthly income was over the federal poverty limit.
4. Vanessa Jackson, a paralegal at South Jersey Legal Services, Inc., sent M.M. an email advising her that the Agency approved the Application for FamilyCare Medicaid benefits. Jackson does not work for the Agency.
5. M.M. never received any correspondence from the Agency that the Application was approved.

LEGAL ANALYSIS AND CONCLUSIONS

Medicaid is a cooperative Federal-State venture established by Title XIX of the Social Security Act. 42 U.S.C. § 1396, et seq. It is "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); see also 42 U.S.C. § 1396-1; N.J.S.A. 30:4D-2. The New Jersey Medical Assistance and Health Services Act, N.J.S.A. 30:4D-1 to -19.5, created New Jersey's Medicaid program and DMAHS to perform administrative and operational functions related to the program. See N.J.S.A. 30:4D-4. Once the state joins the program, it must comply with Medicaid statute

and federal regulations. Harris v. McRae, 448 U.S. 297, 301 (1980). Finally, Medicaid benefits must be provided to individuals whose household income is at or below 133 percent of the federal poverty level based on the family size. 42 C.F.R. § 435.119(b)(5) (2023).

Because the Agency terminated M.M.'s benefits, the Agency bears the burden of proof by a preponderance of the evidence that M.M.'s FamilyCare Medicaid benefits should have been terminated. See WCI-Westinghouse, Inc. v. Edison Twp., 7 N.J. Tax 610, 630 (Tax Ct. 1985), aff'd, 9 N.J. Tax 86 (App. Div. 1986). From the evidence in this record, the Agency has satisfied its burden.

M.M.'s monthly income, as calculated when her Application was processed in May 2024, exceeds 133 percent of the family poverty limit, making her ineligible for FamilyCare Medicaid benefits. The Agency calculated M.M.'s monthly income at \$2,369; the income limit for the New Jersey FamilyCare Medicaid program for single adults and parents is \$2,351. M.M.'s income exceeds the income limit by \$18. For this reason alone, the Agency did not err when determining that M.M. was not eligible for FamilyCare Medicaid benefits.

M.M. argued that she was advised that the Application was granted, primarily through contacts with Vanessa Jackson, a paralegal at South Jersey Legal Services, Inc. This argument, however, is not persuasive here, as there is no correspondence or other information from the Agency indicating that M.M. was approved for FamilyCare Medicaid benefits. In addition, Jackson does not work for the Agency, giving her no authority to speak for the Agency. It appears that Jackson was working with the Agency so that the Application would be approved, which may have been the basis for the emails between M.M. and Jackson. Those discussions, however, did not end with a definitive resolution in M.M.'s favor.

For these reasons, I **CONCLUDE** that the Agency correctly determined that M.M. was not eligible for FamilyCare Medicaid benefits. If M.M.'s monthly income changes, she should reapply for FamilyCare Medicaid benefits.

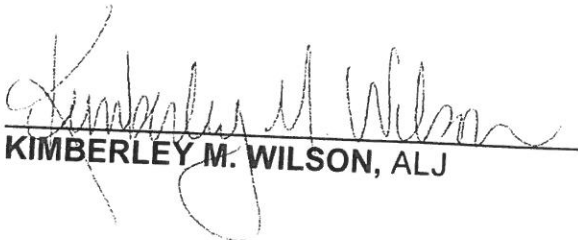
ORDER

Based upon the foregoing, the Agency's decision that M.M. was not eligible for FamilyCare Medicaid benefits is hereby **AFFIRMED**. M.M. should reapply for FamilyCare Medicaid benefits if her monthly income changes.

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.

August 7, 2024
DATE


KIMBERLEY M. WILSON, ALJ

Date Received at Agency:

Mailed to Parties:

KMW/dw

APPENDIX

WITNESSES

For petitioner

M.M.

For respondent

Edward Bittle

EXHIBITS

For petitioner

P-1 Emails between Vanessa S. Jackson and M.M. regarding the Application; M.M.'s Earning Statements; Rutgers University registration information for M.M.'s daughter; M.M.'s 2023 W-2s; M.M.'s 2023 tax returns; Letter from Arji Syed of New Jersey Department of Human Services to M.M. regarding fair hearing request dated May 21, 2024; Letter from the Agency to M.M. dated May 7, 2024, regarding Application

For respondent

- R-1 Fair Hearing Packet containing the following documents:
- NJ FamilyCare Aged, Blind, Disabled Programs Application dated May 4, 2024
 - Medicaid Eligibility System
 - NJ FamilyCare Income Verification Request Information for M.M.
 - NJ FamilyCare Member Eligibility Report MAGI Output
 - Letter from the Agency to M.M. regarding NJ FamilyCare renewal application dated May 7, 2024
 - Fair hearing request
 - Regulation
 - DMAHS income standards effective January 1, 2024