



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. HMA 04465-24
AGENCY NO. 19000336505

M.T.,

Petitioner,

v.

**SUSSEX COUNTY DIVISION
OF SOCIAL SERVICES**

Respondent.

M.T., petitioner appearing pro se

Tina Adamsky, Human Services Specialist 3, for respondent under N.J.A.C. 1:1-5.4(a)(3).

Record Closed: September 5, 2024

Decided: September 10, 2024

BEFORE Nanci G. Stokes, ALJ:

STATEMENT OF THE CASE

Respondent denied petitioner's Aged, Blind, and Disabled (ABD) Medicaid application due to excess income under N.J.A.C. 10:72-4.1 and excess resources under N.J.A.C. 10:72-4.5.

New Jersey is an Equal Opportunity Employer

PROCEDURAL HISTORY

On February 29, 2024, respondent terminated petitioner's Medicaid effective April 1, 2024, because petitioner was over the applicable income and resources 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 January 26, 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.

The petitioner was in a car accident on August 19, 2024, and requested I adjourn the August 27, 2024, hearing. (P-1.) I granted his request and held the hearing on September 5, 2024, and the record closed.

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 January 30, 2024, petitioner, a married individual residing with his spouse, applied for Medicaid's ABD program.

Because petitioner is a household unit consisting of himself and his wife, respondent reviewed petitioner and his spouse's income and resources to determine his financial eligibility. Undeniably, petitioner received \$1,272 monthly in Retirement, Survivors, and Disability Insurance (RSDI) benefits from the Social Security

Administration when he applied. The county welfare agency (CWA) used a \$20 disregard to petitioner's income, making his total countable unearned income \$1,252.

Per the supplied paystubs, petitioner's spouse earned \$6,325.54 gross for the pay date of February 9, 2024, and \$6,823.13 gross for the pay date of February 23, 2024, totaling \$13,148.67. To calculate her monthly earned income, the CWA first adds the two bi-monthly paychecks and divides this amount by two or \$6,574.34. Next, the CWA multiplies that amount by 2.167 to reflect that not all months have thirty days, totaling \$14,246.58. That amount is subject to a \$65 disregard before dividing the amount in half. Thus, \$7,090.79 is countable earned income, which is added to petitioner's income of \$1,252, totaling \$8,342.79.

The CWA also had petitioner's 2022 tax return indicating petitioner's income from the National Fencing Alliance and the West Essex Regional High School. However, the CWA did not consider that income in its determination

Still, the ABD program income limit for a couple in February 2024 was \$1,704. Therefore, petitioner's unearned income and his wife's earned income of \$8,342.79 exceeded the program limit.

Petitioner also supplied a bank statement ending in x8913 that showed \$8,006.57 in available funds as of January 31, 2024. Further, petitioner advised the CWA that he had \$500 in cash in response to the CWA's February 8, 2024, request for verifications. Yet, the ABD resource limit for a couple was \$6,000. Thus, petitioner's household was also over resources.

Respondent must use an electronic asset verification system (AVS) to collect information directly from financial institutions to determine whether Medicaid applicants have assets, including checking and savings accounts, stocks, or other financial interests or instruments. See Medication Communication No. 17-06. Respondent requested statements for four different bank accounts that petitioner did not supply.

Petitioner can reapply. Still, petitioner must supply information for all bank accounts and current income. While petitioner may have ongoing medical issues, that fact is not a consideration in his financial eligibility under the ABD program.

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/>.

Under N.J.A.C. 10:72-3.5(a)3, an ABD household unit means those persons whose income is counted in determining financial eligibility for Medicaid, including an applicant and their spouse with whom they reside.

Further, N.J.A.C. 10:72-2.3(a) requires respondent to verify all eligibility factors. 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. Similarly, respondent's ABD resource eligibility determination follows resource standards within N.J.A.C. 10:71-4.1 to -4.11 according to N.J.A.C. 10:72-4.5. No facts support any income or resource exclusions, and I **CONCLUDE** that the CWA's calculations follow the applicable regulations.

Here, I found that petitioner's household unearned income and earned income exceeded the program income limit of \$1,704 for a couple. See N.J.A.C. 72-4.1(a) (explaining the federal poverty guidelines control). Further, I found that petitioner's resources exceed the \$6,000 limit for a couple under N.J.A.C. 72-4.5.

Therefore, because petitioner's household is over the applicable income and resource limits, I **CONCLUDE** that he is income **INELIGIBLE** for ABD Medicaid benefits under N.J.A.C. 72-4.1(a) and resource **INELIGIBLE** for ABD Medicaid Benefits under N.J.A.C. 72-4.5, and his appeal should be **DISMISSED**.

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 N.J.A.C. 72-4.5, and that petitioner's 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.



September 10, 2024

DATE

NANCI G. STOKES, ALJ

Date Record Closed:

September 5, 2024

Date Filed with Agency:

Date Sent to Parties:

September 10, 2024

ljb

APPENDIX

Witnesses

For Petitioner:

M.T.

For Respondent:

Tina Adamsky, HSS3

Exhibits

For Petitioner:

- P-1 Medical records
- P-2 Opening statement

For Respondent:

- R-1 Medicaid application
- R-2 Request for Information
- R-3 Petitioner's response to the Request for Information
- R-4 Paystubs
- R-5 2022 W-2
- R-6 2022 tax return
- R-7 Bank statement
- R-8 Financial eligibility worksheets
- R-9 Denial letter