



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. HMA 04040-24

M.B.

Petitioner,

v.

MONMOUTH COUNTY DIVISION
OF SOCIAL SERVICES

Respondent.

Medicaid Only
Excess Resources Appeal
N.J.A.C. 10:71-4

STATEMENT OF THE CASE

Respondent denied petitioner's Medicaid Only application due to excess resources under N.J.A.C. 10:71-4.5.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

I.

- ☒ I **FIND** that petitioner or petitioner's representative is **AUTHORIZED** to pursue this appeal; therefore, I **CONCLUDE** that standing has been established.
- ☐ I **FIND** that petitioner or petitioner's representative is **NOT AUTHORIZED** to pursue this appeal; therefore, I **CONCLUDE** that standing has not been established.

II.

I **FIND** that petitioner's **available and countable resources** total \$ 2,772.73 (N.J.A.C. 10:71-4.1, -4.2; see also N.J.A.C. 10:71-4.6 and -4.8 for married individuals). The applicable **resource eligibility standard** is \$ 2,000.00 (N.J.A.C. 10:71-4.5). Petitioner's **date of resource eligibility** is _____ (N.J.A.C. 10:71-4.5) (fill in if resources under applicable standard).

III.

- ☒ I **CONCLUDE** that petitioner is over the applicable resource limit and is therefore resource **INELIGIBLE** for Medicaid Only benefits under N.J.A.C. 10:71-4.5.
- ☐ I **CONCLUDE** that petitioner is not over the applicable resource limit and is therefore resource **ELIGIBLE** for Medicaid Only benefits as of _____ (fill in date of eligibility) under N.J.A.C. 10:71-4.5.

ADDITIONAL FINDINGS OF FACT/CONCLUSIONS OF LAW

The regulations provide that only resources that are "available" to the applicant are to be considered in the determination of Medicaid eligibility. A resource is available when "[t]he person has the right, authority or power to liquidate real or personal property," or when "[r]esources have been deemed available to the applicant." N.J.A.C. 10:71-4.1(c)(1), (2).

Resources that are classified as "excludable," however, "shall not be considered either in the deeming of resources or in the determination of eligibility." N.J.A.C. 10:71-4.4(a). Excludable resources include "the value of resources which are not accessible to an individual through no fault of his or her own." N.J.A.C. 10:71-4.4(b)(6). Petitioner claims that the full value of his Huntington National Bank account, \$2,772.73, was not available to him at the time he applied for Medicaid because neither he nor his family members knew of the account, and when they learned of the account, they still could not access the account quickly enough to preclude its consideration by respondent.

Petitioner stated that, after much of his son's effort, he has been able to spend down the account and has reapplied for Medicaid. Had respondent deemed this money excluded from consideration at the time of M.B.'s application—shortly after which his lawyer notified respondent that the family was in the process of spending the money, (R-5)—M.B. would have been provided Medicaid despite having excess resources. I **CONCLUDE** that despite the difficulty M.B. and his family had in locating and spending down the Huntington National Bank

account, it was "accessible" to M.B., and no third party intervened to keep him from using the money.

ORDER

I **ORDER** that:

- ☐ Petitioner's appeal is **DISMISSED** because petitioner has no standing.
- ☒ Petitioner is resource **INELIGIBLE** for Medicaid Only benefits under N.J.A.C. 10:71-4.5.
- ☐ Petitioner is resource **ELIGIBLE** for Medicaid Only benefits as of _____ under N.J.A.C. 10:71-4.5.

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.

May 29, 2024

DATE



TRICIA M. CALIGUIRE, ALJ

Date Record Closed:

May 17, 2024

Date Filed with Agency:

May 29, 2024

Date Sent to Parties:

May 29, 2024

APPENDIX

Witnesses

For Petitioner:

A.B.

For Respondent:

Daniel Powlesland, HSS 2

Exhibits

For Petitioner:

None

For Respondent:

R-1 Monmouth County Division of Social Services, Adverse Action Notice, dated February 14, 2024

R-2 Not introduced

R-3 Not introduced

R-4 Monmouth County Division of Social Services, Request for Information, dated January 23, 2024

R-5 Letter from Counsel for M.B., dated February 6, 2024

R-6 Application for Medicaid, description of resources portion of application only

R-7 Huntington National Bank Account XXX4170 Statement, dated February 5, 2024