



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. HMA 05140-24

AGENCY DKT. NO. N/A

W.S.,

Petitioner,

v.

**MONMOUTH COUNTY BOARD
OF SOCIAL SERVICES,**

Respondent.

Patricia A. Bennett, Esq., for petitioner (Patricia A. Bennett, Esq, PC, attorney)

Kenneth Mantila, Fair Hearing Liaison, for respondent, pursuant to N.J.A.C. 1:1-5.4(a)(3)

Record Closed: October 18, 2024

Decided: November 8, 2024

BEFORE **MARY ANN BOGAN, ALJ:**

STATEMENT OF THE CASE

Petitioner's Designated Authorized Representative (DAR) appealed the denial of benefits by the respondent Monmouth County Division of Social Services (MCDSS or Board) due to respondent's determination that based on its calculation of the Community Resource Allowance (CSRA) petitioner was over the resource limit for Medicaid eligibility.

The petitioner states the medical expenses paid for W.S. far exceeded one-half of the marital resources, therefore the application should be granted.

PROCEDURAL HISTORY

MCDSS sent notification dated December 26, 2023, that W.S.'s August 31, 2023, application for Managed Long Term Services and Supports (MLTSS) MLTSS-Nursing Medicaid program was denied. The petitioner died on October 13, 2023. On February 23, 2024, Monmouth County Surrogate's Court certified C.S. as the personal representative who in turn named authorized Patricia A. Bennett, Esq. as the DAR. The matter was transmitted to the Office of Administrative Law on April 18, 2024, for a hearing as a contested case. N.J.S.A. 54:14B-1 to -15 and N.J.S.A. 14F-1 to -13. A hearing date was scheduled for May 31, 2024 and adjourned to provide time for further review of the case by both sides and to discuss a possible resolution. The case was rescheduled for a hearing on September 20, 2024, and again adjourned. The hearing took place on October 18, 2024, and the record closed.

FACTUAL DISCUSSION AND FINDINGS

The facts in this matter are not in dispute. Rather, this matter concerns a legal argument regarding the determination of the CSRA in accordance with N.J.A.C. 10:71.4-8. Accordingly, based upon the testamentary and documentary evidence presented, I **FIND** the following as **FACT**:

The petitioner was admitted into a long-term care facility on January 6, 2022. (R-7.) The petitioner was married at the time his application for Medicaid was submitted. C.S. is the community spouse. Thereafter, the Board calculated the total spousal resource at \$299,231.15 based on a snapshot on the date of institutionalization. (R-5.) Dividing this amount by half yielded a determination that the community spouse share was determined to be \$148,620, the maximum resource standard. After reducing that amount by the \$2,000 the petitioner is permitted to retain, the resource level at which Medicaid eligibility may be established totaled \$150,620. (R-6.)

The DAR submits that petitioner's resources had been appropriately spent down and the application for Medicaid should be granted since all financial eligibility requirements have been met. In particular the DAR states that since the expenses paid for W.S. from February 2022 through August 2023 totaled \$186,685.80 the resources cannot exceed the level at which benefits may be granted. (P-2.) Petitioner determined that the resource snapshot as of February 15, 2022, totaled \$399,122.90. (P-1) As of August 31, 2023, the date of the Medicaid application, the net resources totaled \$316,403.20. The DAR believes that since the medical expenses paid for W.S. far exceeded one-half of the marital resources, the application should be granted.

The Board's December 26, 2023, "Spousal Resources Assessment Worksheet" also contained a ledger listing the calculation of the couples combined total resources for: June 1, 2023 totaled \$179,331.76; July 1, 2023 totaled \$186,939.88; August 1, 2023 totaled \$187,093.90; September 1, 2023 totaled \$177,080.59; and October 1, 2023, totaled \$174,245.81. (R-6.).

LEGAL ANALYSIS AND CONCLUSIONS

Medicaid is a cooperative federal and state program established by Title XIX of the Social Security Act for the purpose of furnishing medical assistance to qualified aged, blind or disabled persons or families with disabled children. 42 U.S.C.A. §§ 1396 et seq. Medicaid "is designed to provide medical assistance to persons whose income and resources are insufficient to meet the costs of necessary care and services." L.M. v. N.J. Div. of Med. Assistance and Health Servs., 140 N.J. 480, 484 (1995) (quoting Atkins v. Rivera, 477 U.S. 154, 156, (1986)). If a state chooses to participate in the Medicaid program, it must adopt a state plan that complies with the federal Medicaid Act and the regulations adopted by the Department of Health and Human Services. 42 U.S.C.A. §§ 1396a; Estate of G.E. v. Div. of Med. Assistance and Health Servs., 271 N.J. Super. 229 (App. Div. 1994).

New Jersey has elected to participate in the Medicaid program and the Commissioner of the Department of Human Services is responsible for the operation of

the program. N.J.S.A. 30:4D-1 et seq. The Division of Medical Assistance and Health Services (DMAHS) is the State administrative agency responsible for administering the Medicaid program in New Jersey. To qualify for Medicaid, an applicant must meet the financial (resource and income) eligibility standards as well as the medical (clinical) eligibility standards.

When considering resource eligibility for a married New Jersey institutionalized Medicaid applicant, the Board must first establish the combined countable resources of the couple as of the first date of continuous institutionalization, including all resources owned by either member of the couple individually or together. N.J.A.C. 10:71-4.8(a). Any resource not specifically excluded is considered a countable resource. N.J.A.C. 10:71-4.2(a). The Board then establishes the community spouse's share of the resources from this date. N.J.A.C. 10:71-4.8(a).

Resource eligibility is determined as of the first moment of the first day of the month. N.J.A.C. 10:71-4.1(d); N.J.A.C. 10:71-4.5(a)(1); N.J.A.C. 10:71-4.8(a). "Changes in the amount of countable resources subsequent to the first moment of the first day of the month shall not affect eligibility." N.J.A.C. 10:71-4.5(a)(1). N.J.A.C. 10:71-4.1(c)(3)(1)(1) provides that any funds actually available to the applicant as of the first day of the month subsequent to the month of receipt shall be counted as a resource.

A resource is considered available to the applicant if the individual "has the right, authority or power to liquidate real or personal property or his or her share of it. . . ." N.J.A.C. 10:71-4.1(c)1. "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)." N.J.A.C. 10:71-4.1(b). If a resource has been classified as excludable, it shall not be considered in the determination of eligibility. N.J.A.C. 10:71-4.4(a). For example, an institutionalized applicant's home will be excluded as a countable resource, if their spouse resides in the home as his or her principal place of residence. N.J.A.C. 10:71-4.4(b)(1)(i).

The community spouse's share of resources is subtracted from the couple's total combined resources. If the remaining resources are less than or equal to \$ 2,000, the

institutionalized spouse is resource eligible. If the remaining resources exceed \$ 2,000, eligibility may not be established. N.J.A.C. 10:71-4.8(a).

Furthermore, the Board's resource calculations for the months petitioner had been institutionalized, were calculated after the petitioner's medical expenditures, did not change the petitioner's disqualification.

I **CONCLUDE** that the Board's calculation of the spousal resource is appropriate. I further **CONCLUDE** that the Board's determination that petitioner was over-resourced at the time of application must be **AFFIRMED**.

ORDER

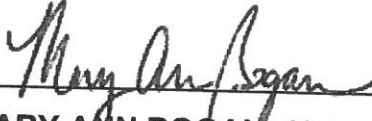
I hereby **ORDER** Monmouth County Division of Social Services' denial of Medicaid eligibility is hereby **AFFIRMED**. Petitioner's appeal is hereby **DISMISSED**.

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 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.

November 8, 2024

DATE



MARY ANN BOGAN, ALJ

Date Received at Agency:

November 8, 2024

Date Mailed to Parties:

November 8, 2024

MAB/nn

APPENDIX

WITNESSES

For petitioner:

C.S., petitioner's spouse

For respondent:

Daniel Powlesland, Human Service Specialist 2

EXHIBITS

For petitioner:

- P-1 Snapshot of resources as of February 15, 2022
- P-2 Paid nursing home and medical bills for 2022 and 2023

For respondent:

- R-1 Letter of denial, dated December 26, 2023
- R-2 N.J.A.C. 10:71-4.8
- R-3 Med Com 23-01
- R-4 Med Com 22-0
- R-5 Spousal resource assessment worksheet, dated December 26, 2023
- R-6 Resource snapshot
- R-7 LTC-2 (notice of admission)
- R-8 Copy of petitioner 'attachment 1'
- R-9 Sample spousal resource assessment worksheet using DAR snapshot figure
- R-10 Medicaid application, dated August 31, 2023