



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. HMA 10774-24

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

A.M.,

Petitioner,

v.

**HUDSON COUNTY DEPARTMENT
OF SOCIAL SERVICES**

Respondent

For petitioner: **Eliyahu Pekier**, Esq. (Law Offices of Simon P. Werchberger, LLC),
attorneys

For respondent: **Kenneth Lidenfelser**, Esq. (Assistant County Counsel, Hudson
County), attorneys

Record Closed: September 2, 2025

Decided: September 9, 2025

BEFORE: **JULIO C. MORREJON**, ALJ

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 petitioner has **STANDING** to pursue this appeal.

II.

I **FIND** that:

- (1) Petitioner's **available and countable resources** total **\$1,749.31** (N.J.A.C. 10:71-4.1, -4.2 for single individuals; N.J.A.C. 10:71-4.6 and -4.8 for married individuals)
- (2) The applicable **resource eligibility standard** is **\$2,000** (N.J.A.C. 10:71-4.5)
- (3) Petitioner's **date of resource eligibility** is **February 1, 2024**, (N.J.A.C. 10:71-4.5) (*fill in if resources under applicable standard*)

III.

☒ I **CONCLUDE** that petitioner is not over the applicable resource limit and is therefore resource **ELIGIBLE** for Medicaid Only benefits as of February 1, 2024, (*fill in date of eligibility*) under N.J.A.C. 10:71-4.5.

ADDITIONAL FINDINGS OF FACT

Based on the evidence presented at the hearing as well as the opportunity to assess the witness' testimony and credibility, I **FIND** the following as **FACT** herein:

Petitioner filed the Medicaid application on February 28, 2024. (R-1). Respondent, Hudson County Department of Family Services ("the Agency") denied the application on June 4, 2024, determining that Petitioner had countable resources over the program resource limit. (R-6). Specifically, the Agency's denial resulted from its determination that Petitioner's Citizens bank account balance of \$2,394.42 and a PNA balance of \$832.89

totaled \$3,227.31 as countable resources on February 1, 2024. (R-2, R-3, R-4, R-5, and R-6).

In calculating Petitioner's resources for February 2024, the Agency included a Veteran Affairs ("VA") pension that was deposited into Petitioner's Citizen's bank account on January 30, 2024. (R-3). The VA pension payment was for the month of February 2024 but was deposited earlier than it should have been. Id. The Citizens bank statement provides that the VA deposit was "paid early," and the record reflects that the same corresponded to a payment for February 2024.

Petitioner's witness, Sosie Steif (Steif) and the Agency's witness, Jessica Martinez (Martinez), testified that they had reviewed Petitioner's Citizens' bank statements for prior years, 2020 through 2024, and found that there were instances when the VA pension payments were deposited on the month they were due and not early. Martinez testified that if the Agency applied the VA pension deposit of January 30, 2024, to February 2024, instead of January 2024, Petitioner's resources would have been less than \$2,000, and she would have been resource eligible for Medicaid.

ADDITIONAL CONCLUSIONS OF LAW

N.J.A.C. 10:71-4.5, regarding resource eligibility standards for Medicaid Only Programs, provides for eligibility in the Medicaid Only Program, total countable resources are subject to the following limits.

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. (emphasis supplied)

The criteria for the determination of eligibility for Medicaid is based on SSI policy and procedure. N.J.A.C 10:71-1.4. In G.C. v. Div. of Med. Assistance & Health Servs., the New Jersey, 249 N.J. 20 (2021), the Supreme Court stated that "[t]he regulations

explicitly tether the availability of 'Medicaid Only' to SSI eligibility: "[a]ged, blind and disabled persons who are living in the community and meet the requirements of the SSI program may receive Medicaid Only." N.J.A.C. 10:71-1.3(a). The Supreme Court stated: "[t]he criteria for determination of eligibility [for Medicaid Only] are based on SSI policy and procedure which do not necessarily coincide with standards for other public assistance programs and therefore require separate instructions." G.C. v. Div. of Med. Assistance & Health Servs., 249 N.J. at 31.

The SSI regulations state that "When an account balance is material to eligibility (i.e. first of the month balance is contributing to a determination of excess resources), determine whether the first of the month account balance includes an early SSI payment, State supplement, or any other regular income payment... Take action to count the income as received in the month of normal receipt." POMS SI 01140.200(D)(6) (P-4).

I **CONCLUDE** that the Agency's application of the VA pension funds that were deposited early as part of Petitioner's countable resources for February 2024 is contrary to the requirements set forth in both New Jersey and Federal regulations. N.J.A.C. 10:71-1.3; N.J.A.C. 10:71-1.4, and POMS SI 01140.200(D)(6).

I **CONCLUDE** that G.C. v. Div. of Med. Assistance & Health Servs states that the Agency is to follow SSI policy when determining Medicaid eligibility, which SSI policy provides that early deposits not be counted as accountable income. Thus, I **CONCLUDE** that Petitioner had \$916.42 in her Citizens bank account prior to the early VA deposit, and \$832.89 in her PNA account as of February 1, 2024, and therefore Petitioner was below the \$2,000 countable resources limit under N.J.A.C.10:71-4.5.

Therefore, I **CONCLUDE** that Petitioner had a combined total of \$1,749.31 countable resources on February 1, 2024, excluding the early deposit from the VA. As such, Petitioner's resources were below the \$2,000.00 resource limit, and therefore the denial must be reversed. N.J.A.C. 10:71-4.5.

ORDER

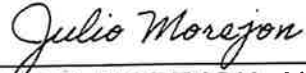
I **ORDER** that:

- ☒ Petitioner is resource **ELIGIBLE** for Medicaid Only benefits as of **February 1, 2024**, 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.

DATE: September 9, 2025


JULIO C. MOREJON, ALJ

Date Record Closed:

September 9, 2025

Date Filed with Agency:

September 9, 2025

Date Sent to Parties:

September 9, 2025

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APPENDIX

WITNESSES

For Petitioner:

Sosie Steif

For Respondent

Jessica Martinez, Case Worker

EXHIBITS

For Petitioner:

P-1 N.J.A.C. 10: 71-1.3

P-2 N.J.A.C. 10: 71-1.4

P-3 G.C. v. Div. of Medical Assistance and Health Services

P-4 SSA - Program Operations Manuel System - SI 01140.200

For Respondent:

R-1 ABD Application

R-2 PNA

R-3 Citizens Bank Statements

R-4 DMAHS Income/ Resources Standard

R-5 Income Worksheet

R-6 Denial Letter

R-7 Citation for Over Resources