



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. HMA 17059-24

AGENCY DKT. NO. N/A

L.G.,

Petitioner,

v.

**CUMBERLAND COUNTY BOARD
OF SOCIAL SERVICES,**

Respondent.

L.G., petitioner pro se

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

Record Closed: January 22, 2025

Decided: January 28, 2025

BEFORE KATHLEEN M. CALEMMO, ALJ:

STATEMENT OF THE CASE

Petitioner, L.G., appeals her denial of eligibility in the Medicaid Only Program for being over the program's resource limit of \$2,000. Respondent, Cumberland County Board of Social Services, (Agency) made its determination based on the cumulative balances from three bank accounts.

PROCEDURAL HISTORY

Petitioner filed her application on June 19, 2024. By letter, dated September 11, 2024, respondent denied eligibility. Petitioner filed a timely request for a fair hearing with the Division of Medical Assistance and Health Services (DMAHS). DMAHS transmitted the contested case to the Office of Administrative Law (OAL) where it was filed on December 5, 2024, for hearing as a contested case pursuant to N.J.S.A. 52:14B-1 to -15; N.J.S.A. 52:14F-1 to -13. The hearing was scheduled for January 22, 2025. I held the telephonic hearing and closed the record the same day.

FACTUAL DISCUSSION AND FINDINGS

The salient facts are uncontroverted, and I **FIND** them as **FACTS**:

When petitioner's benefits through the Affordable Care Act ended on May 31, 2024, she filed for coverage under Medicaid. Petitioner's only source of income is her Retirement, Survivors, Disability Insurance (RSDI) benefit in the amount of \$730.70 monthly, which is deposited into her TD account ending in 7054. Petitioner has been diagnosed with Stage IV ovarian cancer.

Before determining financial eligibility, the Agency accessed financial information from banking institutions using its Asset Verification System (ASV). Through AVS, the Agency identified four accounts bearing petitioner's name. The Agency did not consider the custodial account in petitioner's name with her son. The three accounts attributed to petitioner by the Agency were the Wells Fargo account ending in 6219, the TD account ending in 8700, and the TD account ending in 7054. The Wells Fargo account and the TD account ending in 8700 are titled in the names of petitioner and petitioner's mother, C.K. The other TD account ending in 7054 is titled in the name of petitioner and petitioner's daughter, E.T

Petitioner sent a written explanation of the bank accounts to the Agency¹. (R-1, at 15-17.) In the letter, she explained that due to her mother's progressing dementia, she was entrusted by her family to manage her mother's finances and pay her monthly bills. Petitioner's mother, C.K., resides in an assisted living facility at a monthly cost of \$4,073.21. (R-1, at 10.) All the money in the TD savings account, ending in 8700, and the Wells Fargo checking account ending in 6219, are the sole property of C.K. Petitioner's name was put on those accounts as a convenience for paying bills and managing her mother's only assets.

The bank statements which the Agency used to determine eligibility for June 1, 2024, were received on August 14, 2024. (R-1, 8-14.) The Agency determined that petitioner had countable resources as of June 1, 2024, from three bank accounts: Wells Fargo account ending in 6219 in the amount of \$2,790.81; TD account ending in 8700 in the amount of \$112,325.06; and TD account ending in 7054 in the amount of \$831. (R-1, at 7.)

Testimony

Luis Walker, Human Services Specialist II, testified on behalf of the Agency. Mr. Walker testified that the denial was solely based on the resources in the Wells Fargo account and the TD account ending in 8700. Both those accounts were co-owned by petitioner and her mother, C.K. Mr. Walker stated that if petitioner's name was removed from the accounts with her mother, she would be eligible for Medicaid because the balance in her TD Bank account ending in 7054, was under the limit.

Petitioner testified on her own behalf. She explained that after her stepfather's passing on January 24, 2022, her mother's dementia worsened to the point where she could no longer manage her money or pay her monthly bills. For the last two years, C.K. has been residing in an assisted living facility. All C.K.'s assets were in her Wells

¹ The handwritten explanation was undated. However, the corresponding bank statements are stamped "Received August 14, 2024, Cumberland County Division of Social Services."

Fargo checking account, ending in 6219. To protect her mother's assets and earn interest, petitioner transferred the bulk of the money to a savings account at TD Bank, the account ending in 8700. C.K.'s assets consist of the monies in the TD Savings account ending in 8700, the Wells Fargo checking account ending in 6219, monthly pension in the amount of \$1,955.21, and monthly social security in the amount of \$1,727. C.K.'s pension and social security are deposited into her Wells Fargo account ending in 6219. (R-1, at 9.) C.K.'s monthly income does not cover the cost of her assisted living expenses without using her savings from the TD account, ending in 8700.

None of the funds in the TD Bank account ending in 8700 and the Wells Fargo account ending in 6219 belong to petitioner. Other than explaining to the Agency why her name was on the accounts, petitioner did not know what else needed to be done. She stated she would have removed her name from the accounts if she had known. Due to her cancer, petitioner desperately needs insurance. She has been without coverage since June 1, 2024, and she has unpaid medical bills. She considered stopping treatment due to this situation.

Petitioner uses TD Bank account ending in 7054 for her own banking needs. This is her only account. Her daughter's name is on the account but all the funds in the account belong to petitioner. (R-1, at 13.) Petitioner's RSDI benefit is directly deposited into this account.

K.M., petitioner's sister, submitted an email (P-1) and testified at the hearing. K.M. corroborated petitioner's explanation as to why her name was placed on their mother's accounts. It had been their mother's wish that petitioner's name be on the accounts to manage her money. All their mother's money is used for her monthly living expenses. K.M. stated that petitioner provided her and their other siblings with monthly bank statements and receipts of all money spent on their mother's care. K.M. stated she would gladly be the one to take this burden from her sister so that she could get the Medicaid coverage she desperately needs. K.M. further testified that none of the

money in the Wells Fargo account and the TD Bank account ending in 8700 belong to petitioner. K.M. confidently stated that petitioner has never used their mother's money for any purpose other than the care of their mother.

Based on the above testimony, I **FIND** that the funds in the Wells Fargo account and the TD Bank account ending in 8700 are the sole property of C.K. Petitioner's name is on those accounts for the convenience of C.K., who is elderly and suffering from dementia.

LEGAL DISCUSSION

Medicaid is a program established by Title XIX of the Social Security Act. 42 U.S.C. § 1396 et seq. The purpose of Medicaid is "to provide medical assistance to persons whose income and resources are not sufficient to meet the costs of necessary care and services." L.M. v. Div. of Med. Assistance and Health Serv., 140 N.J. 480, 484 (1995) (quoting Atkins v. Rivera, 477 U.S. 154, 156, 106 S. Ct. 2456, 91 L. Ed. 2d 131 (1986)). New Jersey's Medicaid program derives its authority from the New Jersey Medical Assistance and Health Services Act, N.J.S.A. 30:4D-1.2 to -19.1, and the regulations promulgated thereto. N.J.A.C. 10:49 et seq. In New Jersey, the Medicaid program is administered by the DMAHS. Regulations implementing the State's various Medicaid programs are found at Title 10 of the New Jersey Administrative Code. The Medicaid Only program is administered pursuant to N.J.A.C. 10:71-1 et seq. If an individual has countable resources greater than \$2,000, he/she is not eligible for the Medicaid Only program. N.J.A.C. 10:71-4.5(c).

During the verification process, the Agency discovered, through its asset verification search, three bank accounts that appeared to be co-owned between the petitioner and another party. Petitioner co-owned the TD Bank account, ending in 8700, and the Wells Fargo account with her mother, C.K. The testimony established that all the funds in those accounts belonged to petitioner's mother, C.K. This is an unusual circumstance. Clearly, if C.K. had been the applicant for Medicaid or long-term care,

the funds would be deemed her assets and not those of her daughter, the petitioner herein.

First, under N.J.A.C. 10:71-2.2, a Medicaid applicant must provide sufficient information for the Agency to determine her financial eligibility. In this regard, an applicant must “[a]ssist the CWA in securing evidence that corroborates his or her statements” on the application and “[r]eport promptly any change affecting his or her circumstances.” N.J.A.C. 10:71-2.2(e). Here, petitioner provided the explanation letter and bank statements to support her claims.

The Agency also has responsibilities during the application process, including “[a]ssist the applicants in exploring their eligibility for assistance” and “[m]ake known to the applicants the appropriate resources and services both within the agency and the community, and, if necessary, assist in their use.” N.J.A.C. 10:71-2.2(c). Here, Mr. Walker confirmed that petitioner would be eligible if her name was removed from the accounts belonging to her mother.

Under Medicaid Communication No. 22-04, updating Medicaid Communication No. 10-09, and 42 C.F.R. § 435.952(c)(2) (2024), if a verification results in a discrepancy, insufficient information, or an error, the County Welfare Agency (CWA) will send a request-for-information (RFI) letter. The RFI letter will allow the applicant fourteen days to respond. See Medicaid Communication No. 22-04. If the CWA receives no response, it will deny the application for failure to provide information under 42 C.F.R. § 435.952(c)(2) (2024). The Agency did not include an RFI with its evidence at the hearing and I have no indication from the testimony if it was sent. There was some communication between the Agency and the applicant because petitioner provided a written explanation why her name was on the TD Bank account ending in 8700 and the Wells Fargo account. It appears that after receiving the explanation, the Agency denied the application on September 11, 2024, and considered the account balances in all three accounts to determine that petitioner was over the resource limit for eligibility.

While the Agency appropriately verified all assets to determine eligibility, they did not explain to petitioner what she needed to do to become eligible. If this had been done prior to the denial, petitioner would have had coverage effective June 1, 2024. Accordingly, I **CONCLUDE** that under the unique circumstances in this matter, the Agency should have assisted petitioner by informing her to remove her name from her mother's two accounts. Therefore, I **CONCLUDE** that the funds in the Wells Fargo and TD Bank account ending in 8700 should have been excluded from the calculation of petitioner's resources.

For all the above reasons, I **CONCLUDE** that because the monies located in the Wells Fargo account and the TD Bank account, ending in 5700, were not petitioner's assets, they should have been excluded from the calculations determining eligibility. Accordingly, I **CONCLUDE** that the Agency should have advised petitioner to remove her name from her mother's accounts, which would have allowed the Agency to exclude the assets in those accounts, allowing eligibility as of June 1, 2024.

ORDER

I **ORDER** that the denial of Medicaid eligibility effective June 1, 2024, is **REVERSED**. Petitioner's appeal requesting eligibility for Medicaid as of June 1, 2024, is **GRANTED**.

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.

Kathleen M. Calemme

January 28, 2025

DATE

KATHLEEN M. CALEMMO, ALJ

Date Record Closed:

January 22, 2025

Date Filed with Agency:

Date Sent to Parties:

KMC/tat

APPENDIX

WITNESSES

For Petitioner

L.G.

K.M.

For Respondent

Luis Walker, HSSI

LIST OF EXHIBITS

For Petitioner

P-1 Email, dated January 21, 2025, from K.M., explaining why her sister's name was put on their mother's bank accounts

P-2 Email dated January 21, 2025, from K.K., explaining why her sister's name was put on their mother's bank accounts

For Respondent

R-1 Respondent's fair hearing packet – Denial letter dated September 11, 2024; regulations; validation report; eligibility worksheet/resources spreadsheet; TD Bank statement for account ending in 8700; Wells Fargo bank statement, account ending in 6219; TD Bank statement for account ending in 7054; custodial account; and explanation of bank accounts written by petitioner, L.G.