



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

JENNIFER VELEZ
Commissioner

VALERIE HARR
Director

**STATE OF NEW JERSEY
DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE
AND HEALTH SERVICES**

R.T.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE

AND HEALTH SERVICES AND

ATLANTIC COUNTY BOARD OF

SOCIAL SERVICES,

RESPONDENTS.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 9448-14

As Director of the Division of Medical Assistance and Health Services, I have reviewed the record in this case, including the Initial Decision, the OAL case file and the documents in evidence. No exceptions were filed. Procedurally, the time period for the Agency Head to file a Final Agency Decision in this matter is October 31, 2014, in accordance with N.J.S.A. 52:14B-10 which requires an Agency Head to adopt, reject, or modify the Initial Decision within 45 days of receipt. The Initial Decision in this matter was received on September 16, 2014.

This matter concerns the denial of Medicaid benefits due to excess income. Petitioner first applied for Medicaid in September 2012. She was approved subject to the sale of her home and a lien for interim assistance. On February 28, 2014, Petitioner's Medicaid was terminated as the sale of her home resulted in cash resources above the Medicaid limits. Petitioner made a second application for Medicaid benefits on March 11, 2014. Prior to her application, Petitioner used the money from the sale of her home to gift \$45,000 to her children and open an annuity, payable to her and valued at \$45,000. The annuity would cover Petitioner's nursing home costs for six months beginning March 1, 2014 and would run concurrently with the six month transfer penalty imposed for gifting \$45,000 to her children so long as Petitioner remained "otherwise eligible."

The Atlantic County Board of Social Services' (ACBSS) denied the application finding Petitioner's monthly adjusted countable income of \$8,099.44 exceeded the monthly nursing home costs of \$7950.00. This made Petitioner ineligible for assistance under the Medically Needy program. Petitioner now argues that Medicaid income is only countable on the first day of the month, and therefore, any income received after the first of the month is not included in the Medically Needy determination. Specifically, Petitioner maintains that because her social security and annuity disbursements were received on the 3rd and 14th of March, they should not be counted and she should be found otherwise eligible to receive benefits beginning March 1, 2014.

As recognized by the ALJ, initial income eligibility is based upon all earned and unearned income that has or will be received during the month of application beginning with the first day of each month. N.J.A.C. 10:71-5.2(b). Any income

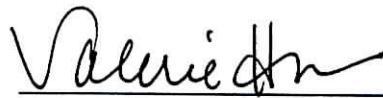
which is not specifically excluded under the provisions of N.J.A.C. 10:71-5.3 shall be includable in the determination of countable income. N.J.A.C. 10:71-5.4(a). Payments from annuities are specifically identified as includable income. N.J.A.C. 10:71-5.4(a). The ALJ correctly concluded that Petitioner's monthly social security and annuity disbursements were properly considered countable income for the purpose of determining eligibility under the Medically Needy program.

Thus, as explained above and for the reasons set forth in the Initial Decision, I hereby ADOPT the Initial Decision upholding the ACBSS' denial of Petitioner's Medicaid application.

THEREFORE, it is on this 28th day of OCTOBER 2007,

ORDERED:

That the Initial Decision in this matter is hereby ADOPTED.

A handwritten signature in black ink, appearing to read "Valerie Harr", is written over a horizontal line.

Valerie Harr, Director
Division of Medical Assistance
and Health Services