C.W.,
Petitioner,

v.

MIDDLESEX COUNTY WELFARE AGENCY,
Respondent.

Decided June 24, 1980

Initial Decision

SYNOPSIS

A local county welfare board denied petitioner's application for participation in the Medicaid Only program because it claimed that her monthly income was exactly equal to the applicable Medicaid eligibility income standard and that eligibility existed only when income level is less than the standard.

The administrative law judge found that while state regulations were silent on the issue, 42 CFR 435.831(b) provided that an individual is eligible for Medicaid when income is equal to or less than the applicable income standard. Accordingly, the administrative law judge concluded that petitioner's income level did not exclude her from the Medicaid Only program.

GOLDBERG, ALJ:

Petitioner requests relief from the administrative determination of the Middlesex County Board of Social Services denying eligibility for Medicaid Only (MO) benefits, pursuant to regulations N.J.A.C. 10:94-5.1 -5.2(b), 5.6. The matter was transmitted to the Office of Administrative Law for determination as a contested case, pursuant to N.J.S.A. 52:14F-1 et seq.

Petitioner requested a hearing on April 25, 1980. After notice to all parties, a hearing was held on June 11, 1980, at the Middlesex County Court House, New Brunswick, New Jersey, before Administrative Law Judge Bernard Goldberg. At issue is the agency's decision denying petitioner's application for participation in the Medicaid Only program because her monthly countable income is exactly equal to the applicable Medicaid eligibility income standard. The agency contends that Medicaid Only eligibility exists only when countable income is less than the applicable income standard. This position, the agency held, is the Division of Public Welfare policy as contained in a letter to the agency from the Bureau of Local Operations of March 12, 1976. No copy of the letter was submitted
at the hearing. The regulations cited are as follows:

**N.J.A.C. 10:94-5**

**FINANCIAL ELIGIBILITY STANDARDS: INCOME**

As a condition of eligibility for the Medicaid Only Program, applicants must comply with the income standards set forth in this Chapter (See Section 480).

**N.J.A.C. 10:94-5.2(b)**

**PROCEDURES REGARDING THE DETERMINATION OF INCOME ELIGIBILITY**

1. **Initial Income Eligibility**

   Determination of initial income eligibility shall be based on all earned and unearned income which has or will be received during the month for which application is made, beginning with the first day of such month, except that quarterly, semiannual or annual payments shall be prorated in accordance with sub-section .2.

**N.J.A.C. 10:94-5.6** provides that the applicable income eligibility standard at the time of the adverse action is $231.

The facts of the case are not disputed. Petitioner, age 90, who is blind, lives in the community. Her sole source of income is a Social Security award of $265. The Medicaid Only budget was presented as follows:

<table>
<thead>
<tr>
<th>Benefit</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Social Security - Old Age Survivors Insurance</td>
<td>$265</td>
</tr>
<tr>
<td>1972 Social Security Adjustment</td>
<td>14</td>
</tr>
<tr>
<td></td>
<td>251</td>
</tr>
<tr>
<td>Social Security Disregard</td>
<td>20</td>
</tr>
<tr>
<td>Net Countable Income</td>
<td>231</td>
</tr>
<tr>
<td>Medicaid Only Income Standard</td>
<td>231</td>
</tr>
<tr>
<td></td>
<td>0</td>
</tr>
</tbody>
</table>

A careful review of the cited regulations do not contain any provisions relating to the instant situation. The March 1976 agency policy letter from the Division of Public Welfare reportedly supporting the agency’s action was not presented at the hearing and even if produced, could not be relied upon as the sole basis for this decision. A review of the federal Medicaid regulations was therefore undertaken for guidance in the matter. The Code of Federal Regulations does contain a provision which controls and that provision is found at 42 CFR 435.831(b). The section deals with medically needy income eligibility for Medicaid and is as follows:

(b) Eligibility based upon countable income. If countable income determined under paragraph (a) of this section or for institutionalized under § 435.832 is equal to or less than the applicable income standard under § 435.812 the individual or family is eligible for medicaid.
Based upon the foregoing I FIND:
1. Petitioner lives in the community.
2. Petitioner has net countable Medicaid Only income of $231.
3. The applicable Medicaid Only eligibility income standard is $231.
4. Federal regulation provides that an individual has Medicaid eligibility when countable income is equal to or less than the applicable income standard.

Based upon the facts adduced at the hearing and pursuant to the federal regulation previously cited, I CONCLUDE petitioner to be eligible for participation in the Medicaid Only program because her countable income is equal to the program's applicable income standard.

Therefore, the action of the Middlesex County Board of Social Services denying petitioner participation in the Medicaid Only program is REVERSED.

After reviewing this Initial Decision, the Division of Public Welfare on July 18, 1980 issued the following Final Decision

The Initial Decision in the case of the above captioned, is accepted and incorporated herein.

The action denying assistance under the Medicaid Only Program, based on the petitioner's income at the time such action was taken, is reversed.