

W. T.,
Petitioner,
v.
BURLINGTON COUNTY
WELFARE BOARD,
Respondent.

Initial Decision: August 5, 1980 Final Agency Decision: August 21, 1980

Superior Court of New Jersey Decision Appears at: 88 *N.J.* 376 (1982)

SYNOPSIS

Petitioner, aged 70 and suffering from organic brain syndrome, contested the termination of his home health services based upon an increase in his monthly income.

The administrative law judge assigned to the case determined that because of an increase in Social Security benefits intended to help beneficiaries keep pace with inflation, the petitioner's monthly income exceeded income limits under the Medical Assistance for the Aged Program and thus petitioner was no longer entitled to such benefits.

Upon review, this initial decision was affirmed by the Division of Public Welfare.

Initial Decision

GOLDBERG, ALJ:

Petitioner requests relief from the administrative determination of the Burlington County Welfare Board terminating Home Health Services funded out of the Medical Assistance for the Aged (MAA) program pursuant to agency regulations MAA Manual 3321.3a and d. 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 June 30, 1980. After notice to all parties a hearing was held on July 24, 1980. The agency has continued MAA funding pending issuance of a final decision. Petitioner, unable to attend the hearing, was represented by Camden Regional Legal Services. At issue was the agency's decision terminating MAA eligibil-

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ity because of an increase in Social Security raised petitioner's monthly income above the applicable program eligibility standard. The agency relied upon MAA manual 3321.3a and d which identify the program's income limits for a married person applying for home health care as:

- a. When income eligibility for a married person is being determined, the monthly income limitation for income eligibility applies whether one or both of the married persons is applying for hospitalization and/or home health care.
- d. Married client and spouse whose joint monthly income is more than \$600 do not have income eligibility.

The facts of the case are not disputed. The petitioner has been receiving three hours of home health care five days per week at a cost of \$8.35 per hour plus two RN visits per month. Medical need for the services is stipulated. Petitioner and spouse's combined income from Social Security rose to \$673.40 on July 1, 1980, as a result of the 14.3 percent cost of living increase or \$73.40 above the MAA income eligibility standard.

Petitioner's representative argued that his client should continue to receive the funding because they have no money to pay for the services which they need. In support of this position he cited *N.J.S.A.* 44:7-82c which requires "consideration of all other income . . . making due allowance for a minimum standard of living compatible with decency and health" in determining eligibility for MAA. Responsibility for establishing the standards rests with the Commissioner, Department of Human Services. The income eligibility standards for MAA has remained unchanged since April 1970. Whether they allow for a minimum standard of living as required in the statute is a matter which must be addressed by the Commissioner.

Based upon the foregoing, I **FIND**:

1. Petitioner has been receiving MAA Home Health Services three hours per day five days per week plus two RN visits per month.
2. Petitioner and spouse's monthly income from Social Security increased to \$673.40 on July 1, 1980.
3. The MAA monthly income eligibility limit for a married couple is \$600.
4. The Commissioner, Department of Human Services has the responsibility to set MAA program eligibility standards.

Based upon the facts adduced at the hearing and pursuant to the agency regulations previously cited, I **CONCLUDE** that petitioner has lost eligibility for Home Health Services funded out of the MAA program because family income exceeds the income eligibility standard.

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Therefore the action of the Burlington County Welfare Board terminating MAA funded Home Health Services is **AFFIRMED**.

This initial decision may be affirmed, modified or rejected by the Director of the Division of Public Welfare, G. Thomas Riti, who by law is empowered to make the final decision in this matter.

**FINAL DECISION BY THE DIRECTOR OF THE DIVISION OF
PUBLIC WELFARE, G. THOMAS RITI:**

The initial decision in the case of the above captioned, dated August 5, 1980, is accepted and incorporated herein with recognition of comment received from the petitioner's legal representative.

Notice is taken that petitioner's legal representative in written exception to the initial decision does not dispute facts pertaining to petitioner's circumstances but challenges the current need standard governing the Medical Assistance for the Aged (MAA) program and financial ineligibility resulting solely from an increase in Social Security benefits. Since all income received by a MAA client must be considered in determining income eligibility under the MAA program (MAA 3300) and since income in the form of Social Security benefits exceeds the applicable standard, the action terminating assistance under MAA program is affirmed.