

BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS
STATE OF GEORGIA

[REDACTED]

Petitioner,

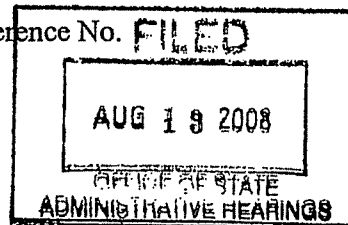
v.

DEPARTMENT OF HUMAN RESOURCES,
DIVISION OF FAMILY AND CHILDREN
SERVICES,

Respondent.

DOCKET NO.
OSAH-DFCS-NH-0825600-73-KENNEDY

Agency Reference No. 675221015



INITIAL DECISION

Petitioner requested a fair hearing in response to Respondent's adverse action denying her application for Medicaid for the months of December 2007, January 2008, and February 2008. A hearing was held on July 14, 2008. Petitioner did not appear, but was represented by legal counsel [REDACTED] with the Georgia Legal Services Program, and her son, [REDACTED] who has Power of Attorney. Respondent was represented by [REDACTED] Community Resource Specialist, and [REDACTED] ABD Supervisor, with Hart County Department of Family and Children Services. For the reasons set forth below, Respondent's denial of Petitioner's Medicaid application for December 2007 through February 2008 is **AFFIRMED**.

FINDINGS OF FACT

1.

Petitioner, an 84-year old widow, entered Hart Care Center, a nursing home, on June 9, 2006. *Testimony of Petitioner's Representative, [REDACTED]; Exhibit P-6.*

2.

After entering the Nursing Home, Petitioner applied for Medicaid benefits through Hart County Department of Family and Children Services on several different occasions. Petitioner's initial Medicaid applications were denied because Respondent determined that her resources exceeded the maximum allowable limit for eligibility under Nursing Home Medicaid. When Petitioner initially applied for Medicaid in or about June 2006, her resources exceeded the allowable resource limit because she had taken out an equity line on her home to assist in paying for her care and still had the funds available to her. Subsequently, Petitioner sold her homeplace in August 2007, paid the debt related to the equity line, and received \$18,686.16 as proceeds from the sale of the home. *Testimony of Petitioner's Representative and Respondent's Representative, [REDACTED]*

3.

Petitioner used the proceeds from the sale of her homeplace to pay for her nursing home care as a private pay patient from September 2007 through a portion of December 2007. As of December 2007, Petitioner could no longer afford to pay for her own care. Accordingly, Petitioner's son, Joe Weldon, submitted a new application for Medicaid benefits on her behalf on December 27, 2007. That application was denied based on confusion about Petitioner's burial and life insurance policies. *Testimony of Petitioner's Representative and Respondent's Representative*, [REDACTED]

4.

On March 12, 2008, the nursing home initiated an involuntary discharge against Petitioner for failure to pay her outstanding nursing home bill. Petitioner then filed another Medicaid application on March 31, 2008. Respondent approved Petitioner's March 31, 2008, Medicaid application. Petitioner was found eligible for Medicaid effective March 1, 2008, on-going. Respondent denied Medicaid benefits for the three months prior to the March 2008 application, those being December 2007, January 2008, and February 2008, based on a determination that Petitioner's resources exceeded the resource limit for those months.¹ *Testimony of Petitioner's Representative and Respondent's Representative*, [REDACTED]

5.

During the months of December 2007, through February 2008, Petitioner held a Bank of America checking account; a Credit Union savings account; and a Patient Fund account maintained by the nursing home. The total balance of each of these accounts on the 1st day of December 2007 was \$5,176.98. As of the 1st day of January 2008, the total balance of the three accounts combined was \$2,047.61. As of the 1st day of February 2008, the total balance of the three accounts combined was \$2,311.05. By March 1, 2008, Petitioner's resources fell below \$2,000.00. *Testimony of Petitioner's Representative; Testimony of Respondent's Representative*, [REDACTED]

6.

In December 2007, and January and February 2008, the nursing home billed Petitioner only for the portion they anticipated she would be liable for if her December 2007 Medicaid application was approved. Petitioner's son paid the invoices as he received them. If Petitioner's son had been aware of the need to pay an additional amount in order to reduce Petitioner's resources so they would be less than the resource limit for Medicaid eligibility, he would have done so. Had Petitioner's son paid the an additional amount to the nursing home in December 2007 or January 2008, Petitioner's resources may have fallen below the \$2,000.00 resource limit by January 1 or February 1, especially given that at that point in time Petitioner's resources exceeded the resource limit only by \$47.61 for January, and \$311.05 for February. Petitioner's son feels he was not advised properly by Respondent's representatives as to how the resources would be calculated. As a result, he did not make additional payments above the invoiced amount. *Testimony of Petitioner's Representative; Exhibits P-4, P-5, and P-6.*

¹ The basis for the denial of the December 2007 application had been resolved by this time and would not affect Petitioner's eligibility for benefits.

CONCLUSIONS OF LAW

1.

In determining an applicant's eligibility for Medicaid, an eligibility caseworker must determine the countable resources available to the applicant on the first moment of the first day of each month for which eligibility is sought, independent of any information respecting Petitioner's financial circumstances in other month(s). *Georgia Department of Human Resources Economic Support Services Manual (ESS Manual) § 2303.*

2.

If the total countable value of an applicant's resources on the first moment of the first day of the month exceeds the resource limit, the applicant is ineligible based on resources for the entire month regardless of fluctuations during the month. Likewise, if the applicant is found countable resource eligible as of the first moment of the first day of the month for which eligibility is sought, he or she remains resource eligible for that month despite subsequent upward resource fluctuations that may exceed the resource limit during the month. This is true with respect to eligibility for prior months, the month of application, and, inferentially, for all intervening months to date of approval. *Id.*

3.

To qualify for Medicaid, Petitioner's countable resources cannot exceed \$2,000 in any given month. *ESS Manual § 2300.*

4.

Countable resources include cash, other personal property, and real property if certain conditions are met. In order for the value of a resource to be applied to the resource limit, the applicant must have an ownership interest in the resource, and the applicant must have the legal right to the use and/or dispose of the resource. *ESS Manual § 2300.*

5.

Petitioner has not presented any evidence to dispute that she had a checking account with Bank of America; a savings account with the Credit Union; and a Patient Fund through the nursing home. Petitioner also has not presented any evidence to rebut Respondent's calculations that the combined total of the three accounts exceeded \$2,000.00 on December 1, 2007; January 1, 2008; and February 1, 2008. Although the total value of the combined accounts exceeded the resource limit on January 1, 2008 by only \$47.61, it nevertheless was still in excess of the maximum allowable limit.

6.

Based on the foregoing, the value of Petitioner's resources exceeded the \$2,000 resource limit for December 2007, January 2008, and February 2008. Therefore, Respondent properly denied Petitioner's application for Medicaid for those months. *ESS Manual §§ 2300, 2303; 2312; and Appendix A-1.*

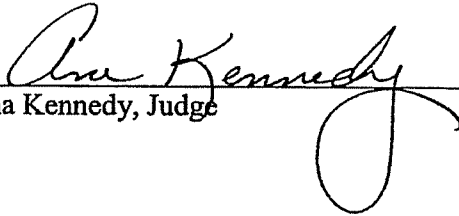
7.

Since this matter involves denial of an application for public assistance benefits, the burden of proof is upon the Petitioner; however, both Petitioner and Respondent bear the burden of proof as to any fact, asserted by them, if the proof of the fact is essential to their case or defense. O.C.G.A. § 24-4-1, OSAH Rule 616-1-2-.07. The standard of proof is preponderance of the evidence. O.C.G.A. § 50-13-15(1), O.C.G.A. § 24-4-3, OSAH Rule 616-1-2-.21(4). Respondent has met its burden and Petitioner has failed to rebut the evidence presented.

DECISION

Respondent's action denying Medicaid benefits for the months of December 2007, through February 2008 is **AFFIRMED**.

So ordered this 13th day of August 2008.


Ana Kennedy, Judge