

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Janet Wilson, :
Petitioner :
v. : No. 1324 C.D. 2010
Department of Public Welfare, : Submitted: December 3, 2010
Respondent :

BEFORE: HONORABLE BERNARD L. McGINLEY, Judge
HONORABLE PATRICIA A. McCULLOUGH, Judge
HONORABLE JAMES R. KELLEY, Senior Judge

OPINION NOT REPORTED

MEMORANDUM OPINION
BY SENIOR JUDGE KELLEY

FILED: April 25, 2011

Janet Wilson petitions *pro se* for review of an order of the Department of Public Welfare, Bureau of Hearings and Appeals (BHA), which denied Wilson's appeal of a Philadelphia County Assistance Office (CAO) determination discontinuing her Medical Assistance benefits. We affirm.

The Administrative Law Judge (ALJ) in this matter made the following findings of fact, which are not disputed herein. Prior to February 16, 2010, Wilson was eligible for Medical Assistance (MA) benefits in the Healthy Horizons program,¹ due to the verified disability of her husband. Upon learning

¹ The Healthy Horizons program was established for elderly or disabled persons with family income up to, but no more than, 100 percent of the current Federal Income Poverty Guidelines and who are otherwise eligible for MA. 55 Pa. Code §140.201(a).

that Wilson's household receives \$508.00 per month in unemployment compensation as well as social security disability (SSD) of \$234.00 per month, in addition to a pension by Wilson's husband of \$1,351.00 per month, the CAO determined that Wilson was ineligible for MA benefits under all categories on the basis that Wilson's household income exceeded the MA income limitations. The CAO determined Wilson's ineligibility as of the date of its receipt of the above-enumerated financial information, on February 17, 2010.

A telephone hearing before an ALJ of the BHA ensued thereafter on June 3, 2010, in which Wilson, her husband, and a CAO caseworker, participated. The ALJ confirmed the calculation of the gross income of Wilson's household's pension, SSD, and unemployment compensation as \$2,093.00. The ALJ noted that the gross income figure would be \$1,585.00 per month without the inclusion of Wilson's unemployment compensation benefits, which Wilson testified were about to end. Further, the ALJ noted that Wilson was granted a standard deduction of \$20.00 on her monthly gross income, arriving at a net income figure of \$2073.00 (inclusive of the currently received unemployment compensation). Finally, the ALJ noted that the applicable MA Healthy Horizons program benefit eligibility was governed² by an income figure no greater than 100% of the Federal Poverty Income Guidelines, which for a two-person household was \$1,215.00 per month.³

² See 55 Pa. Code §140.201(a).

³ See 39 Pa. Bull. 2648 (May 23, 2009).

Under the above figures, the CAO representative testified that Wilson's household income exceeded the limitations for MA benefits. Wilson did not dispute the income amounts as set forth by the CAO representative, but argued that the CAO always knew about all of these sources of Wilson's household income, yet had still found Wilson eligible for MA benefits.

The ALJ concluded that the CAO determination of Wilson's ineligibility for benefits, and concomitant discontinuance thereof, was correct in light of Wilson's household income, even if Wilson's unemployment benefits were not included within her monthly household income. The ALJ further concluded that Wilson was also not eligible, due to her household income, for any other MA benefit program categories. Specifically noting that Wilson was not precluded from reapplying for MA benefits should her household income or medical expenses change in the future, the ALJ entered an Order and Adjudication dated June 4, 2010, denying Wilson's appeal. A Final Administrative Action Order was issued from the BHA on the same date affirming the ALJ's order, and Wilson now appeals from that order.

This Court's scope of review of an eligibility adjudication by the Department of Public Welfare is limited to determining whether constitutional rights were violated, whether the adjudication is in accordance with the law, and whether necessary findings of fact are supported by substantial evidence. McBride v. Department of Public Welfare, 960 A.2d 203 (Pa. Cmwlth. 2008). Substantial evidence is such evidence which a reasonable mind can accept as adequate to

support a conclusion. Feldbauer v. Department of Public Welfare, 525 A.2d 837 (Pa. Cmwlth. 1987).

Wilson presents two issues for review. First, Wilson argues that the ALJ's acceptance of the date of February 17, 2010, as the date of the discontinuance notice sent to Wilson informing her of the discontinuance of her MA benefits is not supported by substantial evidence. In support of her argument, Wilson cites only to her own testimony that she never received any notice of a discontinuance of benefits, and only became aware of any discontinuance when she subsequently tried to have a prescription filled, and was told that her benefits were no longer active. The transcript to the matter shows the following exchange:

ALJ Bobeck: Now, leafing through the documents [submitted into evidence] in this case, first of all, I have MA Discontinuance Notice that was sent out on 2/10/2010. Furthermore, along with that, I have the appeal that was filed by [Wilson] in this case. And actually, [CAO caseworker] Mr. Waverly, if I could at this time, I see two Discontinuance Notices of MA, the one on 2/10, 2/17. They both have the same issue, just they did a re-assessment here and did a later one?

Mr. Waverly: Yes.

ALJ: Okay. So I'll count the 2/17/2010 as the applicable one here then.

Waverly: Right.

Original Record, Hearing Transcript of June 3, 2010 (hereinafter, Tr.) at 7. It is not disputed that later in the telephonic hearing, Wilson argued before the ALJ that she never received any discontinuance notices. Id. at 41.

Waverly's testimony in response to the ALJ's questioning on when the notices were sent out constitutes such evidence which a reasonable mind can accept as adequate to support a conclusion, and thusly is substantial evidence of record. Feldbauer. We emphasize that it is irrelevant whether the record contains evidence to support findings other than those made by an administrative agency in its role as fact-finder; the critical inquiry is whether evidence of record exists supporting the findings that were actually made. Ductmate Industries, Inc. v. Unemployment Compensation Board of Review, 949 A.2d 338 (Pa. Cmwlth. 2008). Further, to the extent that this matter turns on the credibility of the two witnesses in this case offering differing testimony on the issue, the ALJ's credibility determination is beyond our scope of review. It is within the sole discretion of the ALJ as the fact-finder to make credibility determinations, and these determinations will not be disturbed on appeal. Mazzitti and Sullivan Counseling Services, Inc. v. Department of Public Welfare, 7 A.3d 875 (Pa. Cmwlth. 2010). As such, we are required to reject Wilson's argument on this issue. Mazzitti; Ductmate.

Next, Wilson argues that the ALJ erred as a matter of law in concluding that Wilson was not eligible for MA benefits beyond those available under the Healthy Horizons program. Wilson argues that the two-person household eligibility guideline establishes a maximum household income of

\$2,650.00, while her household income total is \$2,093.00, thereby entitling her to benefits. Wilson, however misreads the applicable minimum income guideline, and misapplies her monthly income to a six-month guideline.

As the ALJ made clear in her opinion, Wilson's eligibility for the non-Healthy Horizons MA benefit programs are indeed governed by a household income figure of \$2,650.00, but that figure is not a monthly figure, but a semi-annual, six-month income figure. See 55 Pa. Code §§ 181.11(c); 181.14(c); 181 Appendix F. Multiplying Wilson's \$2,073.00 *monthly* household income (including the applicable \$20.00 monthly disability deduction) *by six* to obtain Wilson's semi-annual, six-month household income, leaves Wilson far in excess of the eligibility requirements for the remaining MA programs. Wilson's six-month household income is \$12,438.00; the MA six-month income ceiling, as noted, is \$2,650.00.⁴ As such, no error is apparent in the record. See Tr. at 9-14.

Accordingly, we affirm.

JAMES R. KELLEY, Senior Judge

⁴ The ALJ noted:

While 55 Pa. Code § 181.14(d) provides the allowable deductible medical expenses, [Wilson] did not provide any proof that she had enough medical expenses to equal or fall under the \$2650.00 income for a six month basis.

ALJ Adjudication at 3.

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ORDER

AND NOW, this 25th day of April, 2011, the order of the Department of Welfare, Bureau of Hearings and Appeals dated June 4, 2010, at Case No. 51-P 2676966-001, is affirmed.

JAMES R. KELLEY, Senior Judge