



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

Division of Medical Assistance and Health Services

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DEPARTMENT OF HUMAN SERVICES  
DIVISION OF MEDICAL ASSISTANCE  
AND HEALTH SERVICES

DIANA ABKIN,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE  
AND HEALTH SERVICES AND  
OFFICE OF THE STATE  
COMPTROLLER, MEDICAID  
FRAUD DIVISION,

RESPONDENT.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. No. HMA 17995-2025

As Assistant Commissioner for the Division of Medical Assistance and Health Services (DMAHS), I have reviewed the record in this case, including the Initial Decision and the Office of Administrative Law (OAL) case file. Neither party filed exceptions in this matter. Procedurally, the time period for the Agency Head to render a Final Agency Decision is August 10, 2026, in accordance with an Order of Extension.

Petitioner appeals the New Jersey Medicaid Fraud Division's (Division) decision disqualifying her from participation in the New Jersey Medicaid Program. Petitioner's disqualification stemmed from a positive urine test indicting the presence of lorazepam (Ativan) and alcohol in violation of the Private Letter Agreement. The matter was referred to the Office of Administrative Law (OAL) for a hearing, where the Administrative Law

Judge (ALJ) issued a Summary Decision upholding the Division's action. Given the undisputed facts, I concur with the ALJ's decision to grant the Division's motion for Summary Decision concluding that the Division appropriately disqualified Petitioner from participation in the New Jersey Medicaid program.

As per the Medicaid Program Integrity and Protection Act, N.J.S.A 30:4D-53 to - 63, the Office of the State Comptroller, Medicaid Fraud Division oversees the integrity of the New Jersey Medicaid Program in part by excluding providers and individuals from the program for good cause. The Division has the authority to disqualify individuals from Medicaid participation based on certain criteria outlined in N.J.A.C. 10:49-11.1. These criteria include violations related to criminal convictions involving moral turpitude and other conduct that undermines the integrity of the Medicaid program. Specifically, N.J.A.C. 10:49-11.1 (d) provides in pertinent part:

Any of the following, among other things, shall constitute a good cause for exclusion of a person by the Medicaid Agent or DMAHS;

7. Violations of any laws, regulations or code of ethics governing the conduct of occupations or professions or regulated industries;

23. Any other cause affecting responsibility as a State contractor of such serious and compelling nature as may be determined by the Medicaid Agent or DMAHS to warrant exclusion, including such conduct as may be proscribed by the laws or contracts enumerated in this subsection, even if such conduct has not been or may not be prosecuted as violations of such laws or contracts;

24. Suspension, debarment or disqualification by some other department or agency in the executive branch.

See Patel, R.Ph. v. DMAHS, OAL DKT. NO. HMA 12544-2016, 2017 N.J. AGEN LEXIS 1341, Final Agency Determination (July 18, 2017) where the Director of DMAHS adopted the report and recommendation of an ALJ who found that a pharmacist who had signed

consent orders surrendering his license and prohibiting him from certain conduct was properly debarred from participation in the Medicaid program.

As noted in the Initial Decision, summary disposition may be entered where there is no genuine issue as to any material fact and where the moving party is entitled to prevail as a matter of law. ID 5,6 citing N.J.A.C. 1:1-12.5 and Brill v. Guardian Life Ins. Co. of Am., 142 N.J. 520, 523 (1995). Once the moving party has shown competent evidence of the absence of any genuine issue of fact, the non-moving party must do more than simply create some doubts as to the material facts; it must raise a factual issue substantial enough to sustain a reasonable conclusion in the non-moving party's favor.

On October 29, 2013, Petitioner received her LPN license. ID at 2. On November 10, 2022, Petitioner entered into a Private Letter Agreement with the Board of Nursing (BON). R-A. In January 2023, Petitioner's urine screen detected the presence of lorazepam and alcohol. Ibid. A subsequent medical review of a blood test confirmed the presence of alcohol. Ibid. Pursuant to the agreement, Petitioner was required to comply with the requirements of the Recovery and Monitoring Program (RAMP), which served as the Board's intervention program. On February 6, 2023, Petitioner withdrew from the RAMP program and was discharged as noncompliant on the same day. Ibid. On April 20, 2023, the BON issued its Order of Suspension for violation of the terms of the Private Letter Agreement. Ibid. Thereafter, by letter dated June 30, 2023, the Division issued a letter notifying Petitioner of its intent to disqualify her from participating in any of the Division of Medical Assistance and Health Service programs. R-B. The letter serves as the Division's "Self-Executing Notice of Disqualification" and provides in relevant part:

This action is based upon the suspension of your New Jersey license to practice nursing for violating the terms of the Private Letter Agreement, as stated in the Order of Suspension of License dated April 20, 2023, issued by the New Jersey Board of Nursing (Board). Pursuant to the Order of Suspension, you

entered into a Private Letter Agreement on November 10, 2022, requiring you to enroll in, participate with, and remain compliant with the Board's designated intervention program, the Recovery and Monitoring Program (RAMP). On February 6, 2023, you were discharged from RAMP as noncompliant, leading to automatic suspension of your license. Ibid.

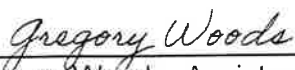
In its April 23, 2023, Order, the BON found that a violation of the Private Letter Agreement amounts to misconduct requiring automatic suspension of license. R-A. While the BON leaves open the possibility for Petitioner to seek reinstatement of her license, any petition for reinstatement shall require Petitioner to complete a comprehensive evaluation through RAMP, or a program similar in scope to RAMP. Ibid. The evaluation must conclude that Petitioner is fit and competent, in compliance with program mandates, up to date with continuing education, has the support of the intervention program selected and in compliance with the terms and conditions of the Private Letter Agreement. Ibid.

Based on the record before me, I agree with the Initial Decision. Respondent's Motion for Summary Decision was unopposed, and a review of the facts and applicable law set forth in N.J.A.C. 13:45C-1.4 support the Division's decision to disqualify Petitioner. Therefore, the ALJ was correct to grant Respondent's request for Summary Decision.

THEREFORE, it is on this 31st day of JULY 2026,

ORDERED:

That the Initial Decision granting Respondent's motion for Summary Decision is hereby ADOPTED.

  
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Gregory Woods, Assistant Commissioner  
Division of Medical Assistance and Health Services