



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. HMA 20299-25

M.B.,

Petitioner,

v.

**UNION COUNTY BOARD
OF SOCIAL SERVICES,**

Respondent.

Simon P. Wercberger, Esq., for petitioner (Law Office of Simon Wercberger,
attorneys)

Yesmin Diaz, Assistant County Counsel for respondent (Bruce H. Bergen,
County Counsel)

Record Closed: June 15, 2026

Decided: August 4, 2026

BEFORE **ANDREW M. BARON, ALJ:**

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

Petitioner, through his designated representative, appeals a determination imposing a financial penalty of ineligibility for New Jersey MLTSS program-based on failure to provide documents.

DISCUSSION

Based upon the testimony, **I FIND the following facts:**

Petitioner filed for coverage under the New Jersey Aged Blind and Disabled program on April 25, 2025. A Request for Verification letter seeking additional documents and information was sent out shortly thereafter. Thereafter, upon receiving the request, five years of prior bank records were provided.

Petitioner is now deceased but still has a sizeable nursing home bill, so his representative through counsel sought and obtained a Judgment from the Union County Chancery Court authorizing them to continue to pursue this appeal.

On September 19, 2025, the Division denied petitioner's application for failure to provide the source of a \$40,000 deposit into petitioner's Wells Fargo account.

It should be noted here that although the petitioner filed in April 2025, the Division did not assign a worker to process the application until July 2025. Ultimately, a determination was not made until September 2025, leaving the facility where petitioner was receiving services unpaid.

In a good faith attempt to comply prior to the denial, petitioner's DAR communicated with Wells Fargo to request supporting documents for all transactions during the period in question.

In response, Wells Fargo was only able to provide confirmation of a cash deposit in the amount of \$40,000 which had no other identifying information.

With that application denied, petitioner through his DAR submitted a new application which is the subject of this appeal.

This time, knowing the basis on which the prior application was denied, a letter of explanation was submitted regarding the cash deposit in question, stating for the first time that "it was not on Wells Fargo letterhead."

While the Division ultimately approved petitioner's second application, it also imposed a 120-day ineligibility penalty for the purported inability to provide further detail on the cash deposit.

Considering the totality of the circumstances, **I FIND** that petitioner through his representative substantially complied with the Division's request for information, as even the bank could only confirm the existence of the cash deposit but not the source. Everything else the Division sought was provided.

Essentially, without any further ability to provide more details, **I THEREFORE FIND** the Division's second denial was **ARBITRARY and CAPRICIOUS**. As all other financial documents as required under the statutes and regulations in accordance with N.J.A.C. 10:71-4.1 et seq. were submitted.

I THEREFORE FIND for purposes of this application that the Division incorrectly determined that a penalty period should be imposed even with substantial compliance, so I hereby **REVERSE** that determination.

LEGAL ANALYSIS AND DISCUSSION

In this matter, the only dispute is whether the Division correctly determined that petitioner was not eligible to receive benefits at the time of application for the New Jersey MLTSS Program due to failure to provide documents in a timely manner.

N.J.A.C. 10:71-5.1 establishes financial eligibility standards for applicants.

Here, it is clear that the petitioner had a valid reason for not complying in a timely manner, but substantially complied with the outstanding request regarding the last

deposit. Still the explanation was not satisfactory to the Division, even though clearly neither the bank, nor petitioner's representative could provide any further explanation.

On the basis of the facts set forth above, I **CONCLUDE** that the Division incorrectly determined that a penalty period should be imposed.

ORDER

Based on the foregoing, it is **ORDERED** that the decision of the agency to deny petitioner's application and/or impose a penalty period is **REVERSED**.

I **FILE** this initial decision with the **ASSISTANT COMMISSIONER OF THE DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES**. This recommended decision is deemed adopted as the final agency decision under 42 U.S.C. § 1396a(e)(14)(A) and N.J.S.A. 52:14B-10(f). The **ASSISTANT COMMISSIONER OF THE DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES** cannot reject or modify this decision.

If you disagree with this decision, you have the right to seek judicial review under New Jersey Court Rule 2:2-3 by the Appellate Division, Superior Court of New Jersey, Richard J. Hughes Complex, PO Box 006, Trenton, New Jersey 08625. A request for judicial review must be made within 45 days from the date you receive this decision. If you have any questions about an appeal to the Appellate Division, you may call (609) 815-2950.

August 4, 2026

DATE


ANDREW M. BARON, ALJ

Date Filed with Agency:

August 4, 2026

Date Sent to Parties:

as

APPENDIX

WITNESSES

For Petitioner:

Mindel Silverman

For Respondent:

Christine Ohles

EXHIBITS

For Petitioner:

- P-1 Order granting Estate Administration to pursue appeal
- P-2 4/2/25 Medicaid application
- P-3 7/31/25 Request for Information
- P-4 Wells Fargo request
- P-5 9/12/25 response to request for information
- P-6 9/15/25 Denial
- P-7 M.B. letter of explanation on deposits
- P-8 11/21/25 request for information on subsequent application
- P-9 12/3/25 Wells Fargo letter
- P-10 12/12/25 Second letter from Wells Fargo
- P-11 Certification of Mindel Silverman
- P-12 Decision E.O. v. Union County
- P-13 Decision D.G. v. Union County
- P-14 Decision D.S. v. Middlesex County

For Respondent

- R-1 Division package