



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. HMA 13970-24

Medicaid Only
Excess Resources Appeal
N.J.A.C. 10:71-4

N.D.

Petitioner,

v.

MIDDLESEX COUNTY

BOARD OF SOCIAL SERVICES

Respondent.

For petitioner: Shelby E. Neiss, Esq.

For respondent: Kurt Eichenlaub, Human Service Specialist 3

BEFORE: JOAN M. BURKE, ALJ

STATEMENT OF THE CASE

Respondent denied petitioner's Medicaid Only application due to excess resources under N.J.A.C. 10:71-4.5.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

I.

- I **FIND** that petitioner or petitioner's representative is **AUTHORIZED** to pursue this appeal; therefore, I **CONCLUDE** that petitioner has **STANDING** to pursue this appeal.
- I **FIND** that petitioner or petitioner's representative is **NOT AUTHORIZED** to pursue this appeal; therefore, I **CONCLUDE** that petitioner has **NO STANDING** to pursue this appeal.

II.

I **FIND** that:

- (1) Petitioner's **available and countable resources** total \$ 105.07 (N.J.A.C. 10:71-4.1, -4.2 for single individuals; N.J.A.C. 10:71-4.6 and -4.8 for married individuals)
- (2) The applicable **resource eligibility standard** is \$ 2,000.00 (N.J.A.C. 10:71-4.5)
- (3) Petitioner's **date of resource eligibility** is November 1, 2023 (N.J.A.C. 10:71-4.5) *(fill in if resources under applicable standard)*

III.

- I **CONCLUDE** that petitioner is over the applicable resource limit and is therefore resource **INELIGIBLE** for Medicaid Only benefits under N.J.A.C. 10:71-4.5.
- I **CONCLUDE** that petitioner is not over the applicable resource limit and is therefore resource **ELIGIBLE** for Medicaid Only benefits as of November 1, 2023 *(fill in date of eligibility)* under N.J.A.C. 10:71-4.5.

ADDITIONAL FINDINGS OF FACT/CONCLUSIONS OF LAW

The issue in this case is whether N.D. had access to a jointly held E*Trade account she shared with her daughter. (See Petitioner's Post Hearing Submission at Exhibit A.) Petitioner filed an application for Medicaid on November 17, 2023. On September 11, 2024, she was denied eligibility based on over resource. Her countable resource was determined to be \$241,047.24. This amount was based on an E*Trade account totaling \$240,942.17 and two checking accounts that total \$105.07. A hearing was scheduled in this matter for November 12, 2024; however a request was made by petitioner's counsel for an adjournment to November 22, 2024. On November 19, 2024, the petitioner's attorney requested the matter to be placed on the inactive calendar pending the outcome of a related action in the Superior Court of New Jersey. (C-1). Petitioner's counsel argues that "N.D. was neither the owner of all the funds in the E*Trade account, nor did she have the ability to access or liquidate any portion of the funds in the account, despite making every effort to do so." (Petitioner's Post Hearing Submission Brief) Guardianship petition was filed for N.D. in 2023. N.D. had a jointly held E*Trade account with her daughter K.D. who asserted an interest in the E*Trade account after the guardianship petition was filed. Ibid. N.D. was deemed an incapacitated person on June 20, 2023, and an Order was entered for "Judgment of Incapacity and Appointment of Guardian of the Person and Estate and Awarding Other Relief" (Judgment). (P-1.) This resulted in a Settlement Agreement (Agreement) entitling N.D.'s Guardian to retain \$20,000 of the amount in the E*Trade account. The \$20,000 was subject to Attorney's Fees which at the time was \$11,063.49 as set forth in the Judgment. (See P-2.) Kurt Eichenlaub testified for the respondent stating they were not aware of the issues with the E*Trade account; however the settlement agreement was submitted with the petitioner's application.

N.D.'s Guardian is her son M.D. He testified on her behalf. Based on the Agreement, E*Trade was to release \$20,000 to N.D. The Agreement states, "The Guardian shall retain \$20,000 of the ward's interest in E-Trade Accounts *4564(primary) and *0663 (cash account) for payment's of the ward's care pending her approval for Medicaid; and shall transfer the balance thereof to the ward's disabled child K.D." (See P-2.) On July 19, 2023, M.D. sent a "Notarized Letter of Intent", to the Legal Team at E*Trade Securities, informing that based on the Agreement there are no longer any disputes. He requested E*Trade distribute to K.D. the entirety of the account less \$20,000. Ibid. The \$20,000 was to be made payable to the Guardian, M.D. This however did not occur as E*Trade did not respond. On January 8, 2025, M.D. filed a Verified Complaint with the Superior Court of New Jersey, Chancery Division, General Equity Part, Union County, under Docket No. UNN-C-109-24. Ibid. On February 6, 2025, E*Trade sent a letter to the Hon. Robert J. Mega, who handled the matter in the Superior Court, in which it states "[P]ursuant to E*TRADE's internal policies and procedures, to effectuate the transaction and transfer of assets from the accounts . . . E*TRADE policies require first and secondary approval from K.D. . . . From the period of 2023 through the time of this filing, E*TRADE's records reflect that it did not receive the requisite secondary confirmation from K.D. regarding the distribution and/or transfer of the Accounts." (P-4.) On March 7, 2025, Judge Mega entered an Order. The Order states, "[p]ursuant to the terms of the Settlement Agreement between the parties, Defendant, K.D, shall immediately authorize the transfer of the \$20,000, from the accounts held at E*Trade to Plaintiff as Guardian for N.D. in accordance with the Settlement Agreement." (P-3.) In F.F. v. DMAHS Final Decision, OAL DCKT HMA 793-2015, the Director stated "resources that are inaccessible through no fault of the applicant may not be considered in determining eligibility". I therefore **CONCLUDE** that the petitioner had no access to the E*Trade account and therefore it should not have been considered in determining her eligibility.

ORDER

I **ORDER** that:

- Petitioner's appeal is **DISMISSED** because petitioner has **NO STANDING**.
- Petitioner is resource **INELIGIBLE** for Medicaid Only benefits under N.J.A.C. 10:71-4.5.
- Petitioner is resource **ELIGIBLE** for Medicaid Only benefits as of November 1, 2023 under N.J.A.C. 10:71-4.5.

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.

4/13/2026

DATE



JOAN M. BURKE

ALJ

03/25/2026

Date Record Closed:

Date Filed with Agency:

Date Sent to Parties:

APPENDIX

Witnesses

For Petitioner:

M.D.

For Respondent:

Kurt Eichenlaub, Human Service Specialist 3/Medicaid Fair Hearing Liaison

Exhibits

For Petitioner:

- P-1 Judgment of Incapacity and Appointment of Guardian of the Person and Estate Awarding Other Relief, June 20, 2023
- P-2 Verified Complaint with attached Exhibits A-I, January 8, 2025
- P-3 Order, Superior Court, Chancery Division, General Equity Part, Union County, Docket No. UNN-C-109-24, March 7, 2025
- P-4 Letter to Kurt Eichenlaub, April 30, 2025

Petitioner's Post Hearing Submission with attached Exhibits A-C

For Respondent:

- R-A NJFamilyCare Application, November 17, 2023
- R-B Request for Information, March 18, 2024
- R-C Eligibility Determination Letter, September 11, 2024; Regulations
- R-D E*Trade account and Settlement Agreement, March 25, 2023
- R-E Asset Verification System Results

For the Court

- C-1 Order of Inactive List, November 20, 2024