



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. HMA 00768-26

AGENCY DKT. NO. N/A

P.H.,

Petitioner,

v.

**MORRIS COUNTY OFFICE OF
TEMPORARY ASSISTANCE,**

Respondent.

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

Maira Rodgers, Fair Hearing Liaison, for respondent pursuant to N.J.A.C. 1:1-5.4(a)3

Record Closed: March 19, 2026

Decided: July 13, 2026

BEFORE **ANDREW M. BARON, ALJ**

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

Petitioner seeks coverage under the New Jersey Age, Blind and Disabled MLTSS program. The State denied her application based on failure to timely provide paperwork, specifically bank records in a timely manner. A new application was then filed, which was

reviewed directly by Morris County, instead of the State. Specifically, the Division analyzed the application from a different perspective, accepted the estranged spouse's argument with additional information and approved the second application based on a spousal waiver, since petitioner and her husband had been estranged for some time. Her appeal on the first application was timely filed and transmitted to the Office of Administrative Law on January 13, 2026.

FACTUAL DISCUSSION AND FINDING OF FACTS

Simon P. Wercberger, Esq. argued for petitioner and Maira Rodgers testified for the Division. Ms. Rodgers candidly admitted that though she was prepared for the hearing, she could not fully testify as to the reasoning why the State representatives denied the first application on different grounds, the second application wherein the estrangement/spousal waiver argument was accepted.

At the time of the appeal, petitioner and the facility in which she was residing had accumulated a bill for services of over \$100,000.

From the outset, it is unclear to me why the first application was reviewed and denied directly by the State, whereas the second application was properly reviewed and approved by the Division.

The first application was apparently denied because the official reviewing it determined that there may have been a remaining joint bank account available to petitioner despite the estrangement and indicated that petitioner's representatives "had not done enough to establish the estrangement" and that petitioner had no control or contact with the spouse for an extended period of time.

Upon re-filing, the second reviewer took a broader approach, believed the estrangement argument and instead of looking at the application from a limited perspective, broadened the review to consider a spousal exemption affidavit, which was ultimately accepted.

There is no explanation as to why if this explanation was sufficient for the second application, it also could have been accepted for the first application, resulting in a third-party bill for services rendered in good faith to petitioner of over \$100,000.

I FIND that petitioner's agent substantially complied with the requested information and the information accepted for the second application could have easily been accepted in connection with the first application.

I FURTHER FIND that once the Division was advised that petitioner's agent had exhausted all of her remedies to try to secure the remaining information, the first application should have been approved, as there is no written explanation as to "what additional steps, the representative should have taken to secure more information. **I FURTHER FIND** under the circumstances of this case, the failure of the Division to either extend the time and/or assist petitioner's agent in securing the information is also sufficient grounds to **REVERSE** the denial of the application.

LEGAL ANALYSIS AND CONCLUSION

In this matter, the only dispute is whether the Division correctly determined that petitioner was not eligible for benefits due to failure to complete paperwork. Such a determination is governed by N.J.A.C. 10:71-2.2, Denial of Eligibility due to Non-Cooperation, and N.J.A.C. 10:71-2.3 Subsequent Refusal to Comply. Both provisions address situations where applicants refuse to comply with Division requests for information. However, it is important to observe here that the same provisions also allow under certain circumstances for the Division to extend the time to provide requested documents that are difficult to obtain, **and** also permit the agency to assist a petitioner in securing those documents when an applicant is unable or does not know how to secure such information.

This, however, is not a refusal case, as petitioner's Attorney who is a credible witness, testified that the company hired by petitioner and their nursing home substantially complied with the Division's requests. All of this was explained to the Division, especially the estranged spouse's situation. At no time did the Division offer to extend the time to

secure the outstanding documents, nor did they offer to assist her in securing documents, which under circumstances like these, they are permitted to do.

N.J.A.C 10:71-2.2 authorizes a county board of social services to establish a cutoff date for submission, and while a county board has discretion to extend a deadline for submission, it is nonetheless entitled to determine when sufficient time has passed, and make a determination based on the information that was supplied, whether it is complete or not. See: N.V. v. DMAHS and Gloucester Cty. Bd. of Social Services, OAL DKT. No. HMA 01201 16, 2016 N.J. AGEN. LEXIS, 140 (Initial Decision March 17, 2016), see also: M.B. v. Ocean County Board of Social Services, OAL DKT. No. HMA 14682-15. N.J. AGEN.LEXIS 758 Initial Decision (December 22, 2015).

The agency is charged with requiring the applicant to complete forms and secure evidence that corroborates the statement of applicants and to report any changes that impact an applicant's financial situation. Normally the process is supposed to be completed in forty-five (45) days. However, the agency has discretion to extend the time to respond, as well as assist a petitioner who is having trouble securing the necessary documents. Due to high volume, and an extensive backlog, the agency has now limited its time to wait after sending out one written request. If it does not hear back in ten days or a petitioner fails to ask for more time, the matter is closed.

In this case, under the circumstances described, **I CONCLUDE** that the Division should have given petitioner's representatives additional time to secure the requested information, or in the alternative, accepted what was presented. **I FURTHER CONCLUDE** that since petitioner's representatives were unable to get her cooperation due to her medical condition, they substantially complied with supplying the requested documents.

I must therefore **CONCLUDE** that the denial should be **REVERSED**.

ORDER

Based on the foregoing it is hereby **ORDERED** that the decision of the agency to deny petitioner's application for benefits is hereby **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.

July 13, 2026

DATE



ANDREW M. BARON, ALJ

Date Filed with Agency:

Date Sent to Parties:

APPENDIX

Witnesses

For Petitioner

Simon Werberger, Esq.

For Respondent

Maira Rodgers, Fair Hearing Liaison

Exhibits

For Petitioner

P-1 Affidavit

For Respondent

R-1 Division Package