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STEPHEN CHA, MD, MHSR
Acting Commissioner

GREGORY WOODS
Assistant Commissioner

STATE OF NEW JERSEY
DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE
AND HEALTH SERVICES

S.G.,

PETITIONER,

v.

CUMBERLAND COUNTY BOARD
OF SOCIAL SERVICES,

RESPONDENT.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. No. HMA 03721-26

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 July 13, 2026, in accordance with an Order of Extension.

This matter arises from Cumberland County Board of Social Services' (Cumberland County) imposition of a transfer penalty of 562 days on Petitioner's Medicaid benefits for the alleged transfer of \$226,360.36 of assets for less than market value. ID at 2. The Petitioner's Designated Authorized Representative (DAR), Brittany Austino,

appealed the transfer penalty on January 20, 2026. Id. at 4. A fair hearing in this matter was originally scheduled for April 8, 2026. On March 25, 2026, the Petitioner's DAR requested an adjournment of the hearing, and the hearing was rescheduled to April 11, 2026. Ibid.

At the fair hearing, Brittany Austino, DAR, Eli Goldstein, Financial Supervisor for Catholic Homes, and Tracie Kingkler, Medicaid Coordinator for Catholic Health Group appeared on contest the transfer penalty. Ibid. Brittany Austino informed the Administrative Law Judge (ALJ) that the Petitioner passed away on February 3, 2026. Ibid. DMAHS had not been informed of the Petitioner's death prior to the fair hearing. Ibid. The ALJ concluded that none of the individuals present at the hearing had the authority to represent the Petitioner and dismissed the appeal. Ibid. I agree.

Upon the Petitioner's death, the authorization granted to Brittany Austino ceased. L.M. v. Division of Med. Assistance & Health Servs., Dkt. No. A-6014-17T1, 2020 N.J. Super. Unpub. LEXIS 791 (App. Div. April 30, 2020) and M.F. v. Div. of Med. Assistance & Health Servs., No. A-2254-17T2, 2019 N.J. Super. Unpub. LEXIS 733 (Super. Ct. App. Div. Apr. 1, 2019). See also E.D. v. DMAHS, HMA 05284-18, Final Decision, (September 4, 2018) and G.C. v. DMAHS, HMA 03582-19, Order on Remand, (October 24, 2019). There is no authority to permit a DAR to continue after death. The appointment of a DAR is meant to be voluntary and revocable. 42 C.F.R. § 435.923; E.B. v. Division of Med. Assistance & Health Servs., 431 N.J. Super. 183 (App. Div. 2013). Upon the death of the applicant, a key boundary placed upon such an appointment vanishes – the legal authority underlying the appointment changes, and the individual can no longer revoke the appointment. 42 C.F.R. § 435.923(c) (providing that “[t]he power to act as an authorized representative is valid until . . . there is a change in the legal authority upon which the individual or organization's authority was based.”).

The DAR designation is analogous to a limited POA for the purposes of pursuing a Medicaid application or appeal. The attorney-in-fact is no longer permitted to act on the principal's behalf once he receives notification of the principal's death. See N.J.S.A. 46:2B-8.5. Additionally, the designation form that Petitioner signed provides that it is revocable at any time, similar to the revocability of a POA. See N.J.S.A. 46:2B-8.10. This federally-mandated revocability provision is rendered meaningless if the designation survives the applicant's death.

In the present matter, there is nothing in the record to support a finding that an estate had been opened and that the administrator of that estate granted Brittany Austino, or any other individual or entity, the authority to act on its behalf. The Initial Decision dismissed the Petitioner's appeal. ID at 4. The Initial Decision makes no substantive determination related to the underlying issue of denial of nursing-home benefits based on an alleged failure to provide corroboratory evidence necessary to determine eligibility, and exclusively focuses on the issue of standing, as it appropriately overrides any discussion related to the transfer penalty. Based upon my review of the record, I hereby ADOPT the Initial Decision in its entirety and incorporate the same by reference.

Accordingly, I FIND that the DAR designation ended upon the Petitioner's death, and nothing in the record shows that a new authorization from Petitioner's estate to continue the appeal has been provided. Thus, I FIND that the Initial Decision correctly dismissed the appeal for lack of standing. Thus, based on the record before me and for the reasons set forth herein, I hereby ADOPT the Initial Decision in this matter.

THEREFORE, it is on this 25th day of JUNE, 2026,

ORDERED:

That the Initial Decision is hereby ADOPTED.

Gregory Woods

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