



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. HMA 04663-26

Medicaid Only
Failure to Verify Eligibility Appeal
N.J.A.C. 10:71-2.2 and -2.3

S.W.

Petitioner,

v.

ATLANTIC COUNTY DEPARTMENT

OF FAMILY AND COMMUNITY DEVELOPMENT

Respondent.

For petitioner: Eliyahu Pekier, Esq. (Law Office Of Simon P. Wercberger, LLC, attorneys)

For respondent: Alysia Remaley, Assistant County Counsel (Atlantic County Department of Law, attorneys)

BEFORE: Susan McCabe, ALJ

STATEMENT OF THE CASE

Respondent denied petitioner's Medicaid Only application for failure to provide the following evidence of eligibility under N.J.A.C. 10:71-2.2(e):

-Disclosure of business

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 petitioner did not provide all the necessary documentation under N.J.A.C. 10:71-2.2(e) and -2.3(a), and that no exceptional circumstances exist under N.J.A.C. 10:71-2.3(c); therefore, I **CONCLUDE** that the Medicaid Only application must be **DENIED** under N.J.A.C. 10:71-2.2(e).
- ☐ I **FIND** that petitioner did not provide all the necessary documentation under N.J.A.C. 10:71-2.2(e) and -2.3(a), but that exceptional circumstances exist under N.J.A.C. 10:71-2.3(c) (*note exceptional circumstances in "Additional Findings of Fact/Conclusions of Law"*); therefore, I **CONCLUDE** that the time limit for verification must be **EXTENDED** under N.J.A.C. 10:71-2.3(c).
- ☐ I **FIND** that petitioner did not provide all the necessary documentation under N.J.A.C. 10:71-2.2(e) and -2.3(a); exceptional circumstances exist under N.J.A.C. 10:71-2.3(c) (*note exceptional circumstances in "Additional Findings of Fact/Conclusions of Law"*); and petitioner has since provided all the necessary documentation; therefore, I **CONCLUDE** that the Medicaid Only application must be **PROCESSED** to determine eligibility under N.J.A.C. 10:71.

- ☒ I **FIND** that petitioner provided all the necessary documentation under N.J.A.C. 10:71-2.2(e) and -2.3(a); therefore, I **CONCLUDE** that the Medicaid Only application must be **PROCESSED** to determine eligibility under N.J.A.C. 10:71.

ADDITIONAL FINDINGS OF FACT/CONCLUSIONS OF LAW

On August 28, 2025, petitioner, S.W., a nursing home resident, applied for Medicaid benefits.

On October 3, 2025, respondent, Atlantic County Department of Family and Community Development (Atlantic County), sent a request for information (RFI) to Mimi Berkowitz, S.W.'s designated authorized representative. This initial RFI set a deadline of October 17, 2025, for Berkowitz to produce: (1) bank statements; (2) copies of S.W.'s Medicare card; and (3) a completed physician's certification form.

On December 9, 2025, Atlantic County sent Berkowitz a second RFI with a deadline of December 23, 2025, requesting: (1) bank statements; (2) deposits; and (3) withdrawal records but for a newly identified bank account.

Upon review, Atlantic County noticed that the transactions for this newly identified bank account involved a business and soon discovered a trade certification dated July 28, 2009, identifying the business and naming S.W. as its owner.

On February 18, 2026, Atlantic County denied S.W.'s Medicaid application because S.W. did not disclose his business concern on his application. See the Certificate of Formation dated October 15, 2012, listing S.W.'s daughter as the sole owner.

Meanwhile, the Medicaid look-back period is five years, see N.J.A.C. 10:71-4.10(b)(9), which means that S.W. was not required to report a business he had not owned since at least 2012 on a 2025 application.

ORDER

I **ORDER** that:

- ☐ Petitioner's appeal is **DISMISSED** because petitioner has **NO STANDING**.
- ☐ Petitioner's Medicaid Only application is **DENIED** under N.J.A.C. 10:71-2.2(e).
- ☐ Respondent must **EXTEND** the time limit for verification under N.J.A.C. 10:71-2.3(c).
- ☒ The case be **RETURNED** to respondent for respondent to **PROCESS** the application to determine eligibility under N.J.A.C. 10:71.

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 17, 2026

DATE

Date Record Closed:

Date Filed with Agency:

Date Sent to Parties:



Susan McCabe

ALJ

07/13/2026

APPENDIX

Witnesses

For Petitioner:

Mimi Berkowitz, designated authorized representative
Kimberly Gunning, daughter of S.W.

For Respondent:

Baseemah McDaniel, Supervisor, Long Term Medicaid

Exhibits

For Petitioner:

- P-1 Emails dated February 26, 2026 and March 10, 2026
- P-2 Request for Information dated October 3, 2025
- P-3 Request for Information dated December 9, 2025
- P-4 Amerikick Registration of Alternate Name and Certifications for Reinstatement dated October 16, 2012, December 15, 2025, and March 5, 2026
- P-5 2024 Tax Record, undated
- P-6 Emails dated December 9, 2025 and December 22, 2025, with document productions
- P-7 Bank Statements dated February 14, 2025 through April 14, 2026

For Respondent:

- R-1 Medicaid Application dated August 28, 2025
- R-2 Notification of Eligibility dated February 18, 2026
- R-3 Request for Information dated October 3, 2025
- R-4 Request for Information dated December 9, 2025
- R-5 PNC Bank business checking statement dated January 1, 2025 through January 31, 2025
- R-6 Trade Certification dated July 28, 2009