



# State of New Jersey

DEPARTMENT OF HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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PHILIP D. MURPHY  
*Governor*

SHEILA Y. OLIVER  
*Lt. Governor*

CAROLE JOHNSON  
*Commissioner*

MEGHAN DAVEY  
*Director*

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

R.G.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE

AND HEALTH SERVICES AND

CUMBERLAND COUNTY BOARD OF

SOCIAL SERVICES,

RESPONDENTS.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 14551-2018

As Director of the Division of Medical Assistance and Health Services, I have reviewed the record in this case, including the Initial Decision, the OAL case file and the documents filed below. Neither party filed exceptions in this matter. Procedurally, the time period for the Agency Head to file a Final Agency Decision in this matter is June 3, 2019 in accordance with N.J.S.A. 52:14B-10 which requires an Agency Head to adopt, reject, or modify the Initial Decision within 45 days of receipt. The Initial Decision was received on

April 18, 2019.

The matter arises from the denial of Petitioner's June 25, 2018 application for Medicaid benefits for failure to provide verifications. Petitioner has identified two authorized representatives with the current Designation of Authorized Representative (DAR) form signed by Petitioner on July 10, 2018 in favor of Hinda Burnstein. ID at 5.<sup>1</sup> Petitioner's wife lives in the community and was involved with the processing of this application. Cumberland County sought information about Petitioner's retirement account that had been mentioned in a May 2017 Medicaid application but never provided. They also asked for information regarding \$12,673.12 deposited into the couples' joint account in April 2017. R-1. It was alleged that Petitioner's wife held a Power of Attorney for Petitioner.

The documents that were requested by Cumberland County pertain to Petitioner's finances. As a joint owner of the bank account, Petitioner would have access to the requested information about the deposit. Petitioner provided no evidence that this was not possible. Cumberland County also sought information about Petitioner's retirement account. To that end, a spousal waiver was not appropriate since the information was in his control. Thus, it was appropriate for Cumberland County to deny the case for the failure to provide information regarding Petitioner's assets.

Additionally, Petitioner is not being found ineligible due to resources but rather for the failure to provide information needed. See 42 U.S.C. § 1396r-5(c)(3). It is the failure to provide information regarding Petitioner's retirement account and deposits into a jointly held account that precludes eligibility which an assignment of support rights will not cure. Petitioner's wife had a Power of Attorney. To the extent she was not cooperating under that authority, there is no waiver. Petitioner's DAR then used the OAL docket number to

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<sup>1</sup> Petitioner's mental capacity was alluded to in testimony by his DAR, however, he was able to execute the DAR in July 2018 and was able to retain counsel in November 2018 which would not be possible if the DAR or counsel had doubted his competency.

serve a subpoena on the financial institutions for the information. This shows that cooperation from Petitioner's wife was immaterial to obtaining the information. As Petitioner had capacity to appoint a DAR and retain counsel as late as November 2018, he would also have had the capacity to request his own financial information. For the findings and reasons set forth in the Initial Decision, I hereby uphold the denial of Petitioner's application and ADOPT the Initial Decision.

THEREFORE, it is on this <sup>30<sup>th</sup></sup> day of MAY 2019,

ORDERED:

That the Initial Decision is hereby ADOPTED.

  
Meghan Davey, Director  
Division of Medical Assistance  
and Health Services