

State of New Jersey

DEPARTMENT OF HUMAN SERVICES DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES PO Box 712 Trenton, NJ 08625-0712

PHILIP D. MURPHY Governor

SHEILA Y. OLIVER Lt. Governor SARAH ADELMAN Acting Commissioner

JENNIFER LANGER JACOBS Assistant Commissioner

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

M.B.,

PETITIONER, v. DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES AND OCEAN COUNTY BOARD OF SOCIAL SERVICES, RESPONDENTS.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 4474-2020

As Assistant Commissioner for 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 to the Initial Decision in this matter. Procedurally, the time period for the Agency Head to render a Final Agency Decision is October 18, 2021 in accordance with an Order of Extension. The matter arises regarding the determination by Ocean County Board of Social Services (Ocean County) that Petitioner was eligible for benefits as of January 1, 2020 but was subject to a transfer penalty for 224 days. ID at 1. The penalty was appealed in March 2020 by Petitioner's Designated Authorized Representative (DAR) who is an employee of the Senior Planning Services.

With consent of both Ocean County and the DAR, the matter was been placed on the inactive list for six months beginning in September 2020. At some point Michael Heinemann, Esq. entered an appearance to represent Petitioner. ID at 2. After a hearing scheduled in April 2021, Petitioner failed to appear. Mr. Heinemann responded the day after the hearing that he was unaware of the hearing date. ID at 2.

The matter was rescheduled for May 13, 2021 at which time Mr. Heinneman appeared but state he was "not sure if he is still representing the petitioner." ID at 2. Another hearing was scheduled for June 11, 2021 at 1:30 pm. At 9:26 that morning, Mr. Heinneman emailed the OAL stating he would not be appearing on behalf of the Petitioner nor did he know if anyone else would be appearing. No substitution of counsel was provided and a final hearing was scheduled on July 13, 2021 with notice to the DAR. No one appeared for Petitioner.

The Initial Decision dismisses the case, finding that neither Mr. Heinemann nor the DAR nor Petitioner appeared or contacted the court at any of the scheduling hearings. N.J.A.C. 1:1-14.4(a) instructs that when a party fails to appear at a scheduled proceeding, the Administrative Law Judge (ALJ) shall hold the case for one day before directing the Clerk to return the matter. Here, the ALJ scheduled multiple proceedings to permit

Petitioner, her counsel or her DAR to appear. Thus, I FIND that the Initial Decision correctly dismisses the appeal.

13th THEREFORE, it is on this day of OCTOBER 2021,

ORDERED:

That the Initial Decision is hereby ADOPTED.

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Jennifer Langer Jacobs, Assistant Commissioner Division of Medical Assistance and Health Services