



**State of New Jersey**

DEPARTMENT OF HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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JENNIFER LANGER JACOBS  
*Assistant Commissioner*

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

MARKETA JOLLY, LPN

PETITIONER,

v.

NEW JERSEY OFFICE OF THE STATE:

COMPTROLLER, MEDICAID FRAUD

DIVISION,

RESPONDENT.

**ADMINISTRATIVE ACTION**

**FINAL AGENCY DECISION**

**OAL DKT. NO. HMA 00372-2021**

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 (OAL) case file. No exceptions were filed in this matter. Procedurally, the time period for the Agency Head to render a Final Agency Decision is January 6, 2022 in accordance with an Order of Extension.

The matter arises regarding the Notice of Debarment issued by the Medicaid Fraud Division, Office of the State Comptroller (MFD) on October 6, 2020 and subsequently amended on October 28, 2020. Petitioner's license to practice as a Licensed Practical Nurse (LPN) was suspended by the State Board of Nursing (Board) on May 14, 2020 for a period

of five years and until Order of the Board. R-A. According to the Final Order of Discipline (FOD), Petitioner was required to, amongst other penalties, "refrain from practicing as a nurse and shall not represent herself as a nurse until such time as her license is reinstated" by the Board. Ibid. Petitioner's nursing license remains suspended. See <https://newjersey.mylicense.com/verification/SearchResults.aspx>. Upon learning of Petitioner's licensing suspension, MFD issued a Notice of Debarment to Petitioner on October 6, 2020, advising Petitioner that because of her licensing suspension, she is debarred from participating in New Jersey Medicaid in any capacity.<sup>1</sup> R-B. On October 28, 2020, MFD issued an Amended Notice of Debarment, putting Petitioner on notice that MFD intended to debar her from the New Jersey Medicaid Program. R-C. As a result of her suspension, MFD advised Petitioner that her debarment would be retroactive from the effective date of her license suspension. Ibid. According to the Notice of Debarment, Petitioner was afforded a prehearing conference to discuss the debarment. ID at 4. Petitioner participated in the prehearing conference on or around December 10, 2020; however, the matter was not resolved. The matter was transmitted to the OAL for a hearing, and MFD filed a Motion for Summary Decision. The Initial Decision granted MFD's motion.

As noted in the Initial Decision, summary disposition may be entered where there is no genuine issue as to any material fact and where the moving party is entitled to prevail as a matter of law. See N.J.A.C. 1:1-12.5 and Brill v. Guardian Life Ins. Co. of Am., 142 N.J. 520, 523 (1995). Once the moving party has shown competent evidence of the absence of any genuine issue of fact, the non-moving party must do more than simply create some doubts as to the material facts; it must raise a factual issue substantial enough to sustain a

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<sup>1</sup> MFD additionally made a report to the National Practitioner Databank (NPDB) on October 23, 2020, advising of Petitioner's debarment from the New Jersey Medicaid program. ID at 10. However, on November 20, 2020, MFD requested that the NPDB remove the report, as Petitioner's debarment from New Jersey Medicaid remains pending and therefore, the report was premature. Ibid. As a result, NPDB removed the report. Ibid.

reasonable conclusion in the non-moving party's favor. In this matter, Respondent's motion for summary decision was granted.

By statute, the Director may suspend, debar, or disqualify for good cause any provider presently participating in the Medicaid program. See N.J.S.A. 30:4D-17.1(a). The New Jersey Administrative Code provides DMAHS with measures to exclude or render ineligible persons from participation in contracts with New Jersey Medicaid or NJ FamilyCare programs . . . on the basis of a lack of responsibility. N.J.A.C. 10:49-11.1(b). In pertinent part, the regulation provides: the measures of suspension, debarment, and disqualification shall be invoked by DMAHS "for the purpose of protecting the interest of the NJ Medicaid or FamilyCare programs and not for punishment." Ibid. It also explicitly provides that the measures "shall not be invoked for any time longer than deemed necessary to protect the interests of the NJ Medicaid or FamilyCare programs." Ibid.

The Medicaid regulations define "debarment" as an exclusion from State contracting on the basis of a lack of responsibility evidenced by an offense, failure, or inadequacy of performance for a reasonable period of time commensurate with the seriousness of the offense, failure, or inadequacy of performance. N.J.A.C. 10:49-11.1(c). The regulations set forth the circumstances in which DMAHS may exclude a provider from participating for the purpose of protecting the interest of the New Jersey Medicaid programs. N.J.A.C. 10:49-11.1(b). The regulation specifically provides that good cause exists when there has been a violation of laws or regulations governing the conduct of occupations or professions or regulated industries as well as the suspension, debarment, or disqualification by some other department or agency. See N.J.A.C. 10:49-11.1(d)7 and 24. Prior to the imposition of debarment, all mitigating factors shall be considered. N.J.A.C. 10:49-11.1(e) 3.

Based on my review of the record and the documents presented below, I hereby ADOPT the Initial Decision. Petitioner's debarment is warranted as a result of the suspension of her nursing license by the Board, pursuant to N.J.A.C. 10:49-11.1(d)7 and 24. Petitioner's

arguments in this matter mostly relate to the underlying license suspension. However, that matter is settled, and this is not the appropriate forum to relitigate that issue. The record shows that Petitioner's nursing license is currently suspended for a period of five years, beginning May 14, 2020 and, as a result, she is unable to engage in the practice of nursing. The Board has not restored Petitioner's nursing license, and no credible, documentary evidence has been supplied by Petitioner to support her claim that MFD's action in debarring her from New Jersey Medicaid is unjustified.

Accordingly, and for the reasons set forth above and in the Initial Decision, I ADOPT the Administrative Law Judge's recommended decision, and FIND that summary decision in favor of MFD is appropriate in this matter.

THEREFORE, it is on this 22nd day of DECEMBER 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