



**State of New Jersey**

DEPARTMENT OF HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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TRENTON, NJ 08625-0712

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JENNIFER LANGER JACOBS  
*Assistant Commissioner*

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

**M.P..**

**PETITIONER,**

**v.**

**DIVISION OF MEDICAL ASSISTANCE :**

**AND HEALTH SERVICES AND :**

**MONMOUTH COUNTY BOARD OF :**

**SOCIAL SERVICES, :**

**RESPONDENTS. :**

**ADMINISTRATIVE ACTION**

**FINAL AGENCY DECISION**

**OAL DKT. NO. HMA 5471-2021**

As Assistant Commissioner 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. Petitioner filed exceptions in this matter. Procedurally, the time period for the Agency Head to file a Final Decision is November 18, 2021 in accordance with an Order of Extension.

The matter arises regarding the denial of Medicaid benefits due to Petitioner's

failure to provide information regarding her assets. Petitioner applied through her counsel's office on March 23, 2021. R-1a. Petitioner's son signed a Designation of Authorized Representative (DAR) form on March 23, 2021 in favor of John Callinan, Esq. or Paula Fama, a legal assistant, who signed the application. R-1c. By notice dated April 14, 2021 Monmouth County Board of Social Services (Monmouth County) requested more information including documentation from Talcott Resolution, life insurance policies, Putnam Investment which were all identified in the application as well as accounts not reported but discovered through the Asset Verification System. Petitioner's brief at Exhibit 1. Some information was provided by letter dated April 21, 2021. At that time, Petitioner's counsel assert that Petitioner's son made an allegation that Petitioner was incompetent and, due to a pending guardianship, could not access the accounts that were in her name. R-4.

On April 29, 2021, Monmouth County issued another request for information that reiterated the items not supplied from the April 14 letter and among other items requested information regarding a loan from one of the life insurance policies, verification of all desposits or withdrawals over \$1,000, information about a lease and accounting from the nursing facility. R-6.

Petitioner responded on May 6, 2021 again asserting that the accounts in, Petitioner's name, including the life insurance policies, Putnam investments and Talcott Resolutions, were "unattainable" until guardianship was granted. Despite this, Petitioner's letter disclosed that there was a \$4,000 loan from one of the life insurance policies and that Petitioner received income from the annuities that "will go away . . . [when Petitioner's son] cashes out the policies." Petitioner counsel stated that the guardianship hearing was set for May 21, 2021. R-7.

On May 13, 2021, Monmouth County issued a final request for information and set the return dated as May 31, 2021, ten days after the date of the guardianship hearing. Among the items requested, Monmouth County sought information regarding the income and cash surrender value from the annuities mentioned in the May 6, 2021 letter. No further correspondence was forthcoming from Petitioner.

On June 2, 2021, the application was denied because Petitioner did not provide Monmouth County with sufficient information regarding several of her assets. Among the missing items were statements from a Putnam Investment account, a Talcott Resolutions, two Capital One accounts, the face and cash value of two Prudential Life Insurance policies, all deposits or withdrawals or transfers over \$1,000 during the lookback period, information regarding annuity income; verification of funds held by the nursing facility as well as accounting of Petitioner's nursing facility account. R-9. This appeal followed.

The local County Welfare Agencies evaluate Medicaid eligibility. N.J.S.A. 30:4D-7a; N.J.A.C. 10:71-2.2(a); N.J.A.C. 10:71-3.15. Eligibility must be established in relation to each legal requirement of the program. N.J.A.C. 10:71-3.15. CWAs must verify the value of resources through appropriate and credible sources, which includes evaluation of the applicant's past circumstances and present living standards in order to ascertain the existence of resources that may not have been reported. N.J.A.C. 10:71-4.1. If the applicant's resource statements are questionable, or there is reason to believe the identification of resources is incomplete, the CWA can verify the applicant's resource statements through one or more third parties. Ibid. "The process of establishing eligibility involves a review of the application for completeness, consistency, and reasonableness." N.J.A.C. 10:71-2.9. Applicants must provide the CWA with specific

verifications, which are identified for the applicant.

N.J.A.C. 10:71-2.2(e) provides:

As a participant in the application process, an applicant shall:

1. Complete, with assistance from the CWA if needed, any forms required by the CWA as a part of the application process;

2. Assist the CWA in securing evidence that corroborates his or her statements;  
and

3. Report promptly any change affecting his or her circumstances.

[Emphasis added.]

N.J.A.C. 10:71-3.1(b) also requires the applicant to substantiate his application with corroborative evidence from pertinent sources. The CWA must timely process the application. See 42 U.S.C. § 1396a(3); 42 C.F.R. § 435.911; N.J.A.C. 10:71-2.3. The agency must send each applicant written notice of its decision on an application and, if eligibility is denied, the reasons for the denial and the right to request a fair hearing. 42 C.F.R. § 435.913; N.J.A.C. 10:71-8.3. The CWA will deny applications when the applicant fails to timely provide verifications. See N.J.A.C. 10:71-2.2(e), -2.9, -3.1(b).

At the hearing, Petitioner' counsel argued that the assets were unavailable because of a pending guardianship action. However, as the Initial Decision aptly noted, the application was not denied due to excess resources. Rather, Petitioner failed to provide information necessary to make a determination. The regulation cited by Petitioner N.J.A.C 10:71-4.4(b)(6) can exclude the value of resources that are unavailable through no fault of the applicant. Like the appellant in *C.H. v. Camden Cty. Bd. of Soc. Servs.*, No. A-2192-19, 2021 N.J. Super. Unpub. LEXIS 2506 (Super. Ct. App. Div. Oct. 19, 2021), Petitioner conflates the request for information with the calculating the resources. In that recent decision the Appellate Division found that N.J.A.C. 10:71-4.1(c), which also

discusses the availability of a resource, applies to “the actual resource, not the documentation to verify its existence.”

Here Monmouth County requested documents about Petitioner's assets including accounts disclosed on the application. Petitioner presented no witnesses at the hearing or presented any attempt to obtain the information. However, the record shows Petitioner and her representatives had access to information regarding the accounts. Her attorney's office disclosed the accounts by policy and account number on the application. Moreover, after being asked about the Putnam account, the life insurance policies and Talcott Resolutions account disclosed in the application, Petitioner's counsel acknowledged that Petitioner “receives a small amount from the annuities but those amounts will go away once guardianship is granted and [her son] cashes out the policies.” R-7. Likewise, Petitioner responded that a questionable deposit was a loan from one of her life insurance policies. Indeed the physician certifications filed for the guardianship stated that Petitioner herself “was aware of her financial situation and specifically requested her son . . . handle her financial affairs.” R-5. As such, Petitioner's claims that she could not provide information regarding her accounts is belied by the record.

Even assuming the guardianship hearing was the key to providing the information, Petitioner was given a deadline to provide the information 10 days beyond the date of the guardianship hearing. Her last communication with Monmouth County was May 6, 2021 and she failed to seek an extension or communicate further. ID at 10. Monmouth County was under no obligation to further extend the time beyond the final deadline of May 31, 2021.

In exceptions, Petitioner claims unspecified “privacy laws” precluded her from getting information about the accounts she had already disclosed on her Medicaid


application. Petitioner and her attorney had already provided specific information about the accounts on the application and in letters to Monmouth County. There is no evidence that Petitioner or her attorney could not secure corroborating documentation or disclose the documentation used to identify the accounts and the fact that the annuity provided her income and that could be liquidated. The failure to do so warrants the denial of the application.

Thus, for the reasons set forth above and those contained in the Initial Decision, I hereby ADOPT the Initial Decision and uphold the denial issued by Monmouth County.

THEREFORE, it is on this <sup>9th</sup> day of NOVEMBER 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