



**State of New Jersey**  
OFFICE OF ADMINISTRATIVE LAW

**INITIAL DECISION**

OAL DKT. NO. HMA 15326-25

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

B.L.

Petitioner,

v.

CAPE MAY COUNTY BOARD  
OF SOCIAL SERVICES

Respondent.

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

For respondent: Lauren F. Fogarty, Asst. Cty Counsel (Cape May Cty Dept. of Law)

BEFORE: KATHLEEN M. CALEMMO, 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):

On July 31, 2025, respondent denied petitioner's application for failure to provide verification of the last outstanding item from the Request for Information (RFI) dated July 3, 2025. On July 17, 2025, petitioner provided sufficient verifications for all but one transaction for a withdrawal in the amount of \$19,500. Was the Agency's denial appropriate? No, the Agency should have approved the application with a period of ineligibility under N.J.A.C. 10:71-4.10(i), as petitioner's request for a status update was within the forty-five day period under N.J.A.C. 71:2.3(a).

### **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 July 17, 2025, the DAR informed the Agency that petitioner's son could not locate the documentation about the \$19,500 transfer, but believed he had previously provided it. The Agency immediately confirmed that no such verification had been provided. This was the only outstanding item. On August 5, 2025, the DAR requested an update of the case. This request was within the forty-five day period for processing applications. On August 12, 2025, when respondent advised that the matter was denied for failure to provide, the DAR requested an approval with a penalty, but the respondent informed her it was too late and petitioner needed to reapply.

While the email communications between the parties should have been more precise, respondent had been informed that the verification could not be located. Petitioner did not request more time to locate this information after the Agency's confirmation. Instead of communicating with petitioner as required under N.J.A.C. 10:71-2.2(c)(3), the Agency rushed to deny the application.

Accordingly, I CONCLUDE that the application dated June 30, 2025, should have been timely processed within the forty-five day period with an approval of Medicaid eligibility and a penalty period for the \$19,500 transfer under N.J.A.C. 10:71-4.10(i).

**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.

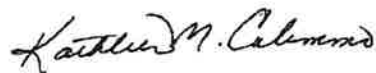
**December 3, 2025**

DATE

Date Record Closed:

Date Filed with Agency:

Date Sent to Parties:



KATHLEEN M. CALEMMO, ALJ  
11/12/2025

**APPENDIX**

**Witnesses**

**For Petitioner:**

Melissa Alvord, Human Services Specialist 3

**For Respondent:**

Chany Horovitz, Designated Authorized Representative

Exhibits

For Petitioner:

P-1 Emails

P-2 Bank statements

For Respondent:

R-1 Fair Hearing Packet: Summary; Denial dated July 31, 2025; DAR form; Regulations; RFI dated July 3, 2025; and Email communications.