

On November 26, 2024, an application for Medicaid was submitted on behalf of Petitioner, three days after Petitioner's death, by an individual who had previously been Petitioner's designated authorized representative (DAR), R.E. Without knowledge of Petitioner's death, Gloucester County Board of Social Services (Gloucester County) issued a December 13, 2024, determination letter denying Petitioner's application for excess resources. Thereafter, on February 11, 2025, R.E. submitted a fair hearing request on behalf of Petitioner, following up to provide a new DAR form wherein Petitioner's Power of Attorney designated R.E. as the DAR. (Ex A)

The Initial Decision ordered the dismissal of Petitioner's appeal on the basis that R.E. did not have authority to submit either the Medicaid application or the fair hearing request on behalf of Petitioner. The Initial Decision makes no substantive determination related to the underlying issue of Petitioner's denial for excess resources, and exclusively focuses on the issue of standing, as it appropriately overrides any discussion related to the denial. Based upon my review of the record, I hereby ADOPT the Initial Decision in its entirety.

Upon Petitioner's death, the authorization granted to Petitioner's DAR ceased. L.M. v. Division of Med. Assistance & Health Servs., Dkt. No. A-6014-17T1, 2020 N.J. Super. Unpub. LEXIS 791 (App. Div. April 30, 2020) and M.F. v. Div. of Med. Assistance & Health Servs., No. A-2254-17T2, 2019 N.J. Super. Unpub. LEXIS 733 (Super. Ct. App. Div. Apr. 1, 2019). See also E.D. v. DMAHS, HMA 05284-18, Final Decision, (September 4, 2018) and G.C. v. DMAHS, HMA 03582-19, Order on Remand, (October 24, 2019). There is no authority to permit a DAR to continue after death. The appointment of a DAR is meant to be voluntary and revocable. 42 C.F.R. § 435.923; E.B. v. Division of Med.

Assistance & Health Servs., 431 N.J. Super. 183 (App. Div. 2013). Upon the death of the applicant, a key boundary placed upon such an appointment vanishes – the legal authority underlying the appointment changes, and the individual can no longer revoke the appointment. 42 C.F.R. § 435.923(c) (providing that “[t]he power to act as an authorized representative is valid until . . . there is a change in the legal authority upon which the individual or organization’s authority was based.”).

The DAR designation is analogous to a limited POA for the purposes of pursuing a Medicaid application or appeal. Additionally, the designation form that Petitioner signed provides that it is revocable at any time, similar to the revocability of a POA. See N.J.S.A. 46:2B-8.10. This federally-mandated revocability provision is rendered meaningless if the designation survives the applicant’s death.

In the present matter, the record does not show that an estate was opened or that an administrator was authorized to act on behalf of the estate at the time of Petitioner’s Medicaid application or fair hearing request. Specifically, the DAR designation ended upon Petitioner’s death and accordingly the DAR had no authority to act on behalf of Petitioner.

Thus, I FIND that the Initial Decision correctly dismissed the appeal finding that the DAR did not have standing to act on behalf of the estate of Petitioner.

THEREFORE, it is on this 22nd day of MAY 2025,

ORDERED:

That the Initial Decision is hereby ADOPTED.



Gregory Woods, Assistant Commissioner
Division of Medical Assistance and Health Services