State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

FINAL DECISION
OAL DKT. NO. HMA 13183-25
AGENCY DKT. NO. N/A

H.K.,
Petitioner,
v.
MIDDLESEX COUNTY BOARD OF SOCIAL SERVICES,
Respondent.

Eliyahu Pekier, Esq., for petitioner (Law Office of Simon P. Wercberger, LLC, attorneys)

Kurt Eichenlaub, Human Services Specialist 3, for respondent, pursuant to N.J.A.C. 1:1-5.4(a)(3)

Record Closed: October 16, 2025 Decided: November 3, 2025

BEFORE **JUDITH LIEBERMAN,** ALJ:

STATEMENT OF THE CASE

Petitioner H.K. appeals the determination by respondent Middlesex County Board of Social Services (Board) that he was ineligible for Medicaid because he failed to produce information that the Board requested. Was petitioner eligible for Medicaid? No.

Petitioner failed to supply records that the Board needed to determine her countable income. N.J.A.C. 10:71-1.6(a)(2), -5.2.

PROCEDURAL HISTORY

On January 31, 2205, the Board notified petitioner that it denied his application, and petitioner filed a timely appeal. The Division of Medical Assistance and Health Services (DMAHS) transmitted this matter to the Office of Administrative Law (OAL), where it was filed on July 29, 2025, as a contested case. N.J.S.A. 52:14B-1 to -15; N.J.S.A. 52:14F-1 to -13. A telephonic hearing that was scheduled for August 15, 2025, was adjourned in response to petitioner's request, with the Board's consent. The hearing was held on September 30, 2025, and the record remained open for the parties to submit post-hearing briefs. The Board advised that it would not submit a brief, and petitioner filed his brief on October 16, 2025. The record closed that day.

DISCUSSION AND FINDINGS OF FACT

The following is undisputed, and therefore I **FIND** it as **FACT**. Petitioner, through his designated authorized representative, applied for Medicaid on April 4, 2024. R-A. At that time, he lived in a nursing facility. R-B at 2. On December 31, 2024, the Board requested multiple documents from petitioner, including bank statements from TD Bank from July 1, 2024, through December 31, 2024, documentation and explanation of all deposits and withdrawals to and from the account, and "verifications and a detailed letter of explanation" for six listed transactions to or from that account. Also, noting "a significant change in balance for" petitioner's Wells Fargo account from July 1, 2021, through August 31, 2021, and June 1, 2024, through December 31, 2024, it requested "all pages of bank statements for these months, along with written explanation and verification of all deposits and withdrawals into/from [the] account." Id. at 4. Petitioner was to produce this information by January 14, 2025, or "send a letter of explanation" if he did not have it. Ibid. The Board did not explain to petitioner or his representative why it waited almost nine months to request this information.

On January 14, 2025, petitioner's representative produced TD Bank statements for January 21, 2024, through February 20, 2024; December 21, 2023, through January 20, 2024; and November 21, 2023, through December 20, 2023. R-E at 1–12. Included with the bank statements was a TD Bank document stating that it was unable to locate transactions for December 23,[1] and December 29, 2023. Id. at 6. Petitioner also produced Wells Fargo bank statements for December 1, 2024, through December 31, 2024; November 1, 2024, through November 30, 2024; October 1, 2024, through October 31, 2024; September 1, 2024, through September 30, 2024; and August 1, 2024, through August 31, 2024. Id. at 13–23.

When petitioner's representative supplied the bank statements, she wrote that petitioner was divorced from his ex-wife and that the Wells Fargo account was hers. His ex-wife added him to the account when she expected him to move in with her. The representative added, "If there was [sic] any additional withdrawals that verification was not provided [sic], please penalize as opposed to denying." P-3. The representative did not address the Zelle deposits made to the Wells Fargo account or request additional time to produce this information.

The Board determined that petitioner did not document Zelle deposits that were made by J.K. to the Wells Fargo bank account.[2] Id. at 14–23. They totaled $1,165.

The Board did not issue additional requests for information. It denied petitioner's application on January 31, 2025, citing his "failure to provide requested information required to determine eligibility in a timely manner. 42 CFR 435.952." R-C at 2.

Petitioner filed a second Medicaid application and explained that J.K. is his daughter. In a September 29, 2025, letter, he wrote, "[J.K.] is my daughter – you will see Zelle transfer between us two as we helped each other with daily living expenses. The Zelle deposits coming in from [J.] was never an income rather it was money to and from

[1] The year was not specified.
[2] The Board originally determined that petitioner failed to explain cash deposits that were made to his bank account. It later accepted petitioner's explanation for the deposits.

helping each other with daily household bills." P-5. The Board accepted this explanation of the Zelle deposits.

Miri Rothberg supervised petitioner's representative. She explained that, based upon her long history of working with the Board, she understood that its requests for information were usually specific. The Board did not specifically request information about Zelle deposits. Also, she believed the Board knew that J.K. was petitioner's daughter and that petitioner did not have a business. She thus believed the Board understood that the Zelle deposits were not income.

Parties' Arguments

Petitioner contends that the Board's request for information was overly broad and vague; it did not explicitly request an explanation about the Zelle deposits; and it failed to act in accord with its duty to assist and communicate with Medicaid applicants. Further, the Board "may only verify an applicant's resource statements if those statements are questionable or if there is reason to believe that resourced have not been fully identified." Pet'r's Br. at 2. The Zelle deposits were not needed to determine petitioner's eligibility, as they totaled $1,165, and it was "unreasonable to infer that [he] was engaged in any form of business activity while residing in a nursing facility, particularly when the only person transferring funds was his daughter, who shares his last name." Id. at 3. Finally, the Board impermissibly delayed its processing of his application and failed to notify him of the delay. Given this delay, it should have issued a supplemental request for information in which it clearly requested information that was missing.

DISCUSSION AND CONCLUSIONS OF LAW

Pursuant to the New Jersey Medical Assistance and Health Services Act, N.J.S.A. 30:4D-1 to -19.5, the DMAHS is responsible for administering Medicaid. N.J.S.A. 30:4D-5. Through its regulations, the DMAHS establishes "policy and procedures for the application process." N.J.A.C. 10:71-2.2(b). "[T]o be financially eligible, the applicant must meet both income and resource standards." In re Estate of Brown, 448 N.J. Super. 252, 257 (App. Div. 2017); see also N.J.A.C. 10:71-3.15; N.J.A.C. 10:71-1.2(a).

An applicant is obligated to provide all required information to support their application and is the primary source of information. N.J.A.C. 10:71-1.6(a)(2). In the Medicaid application process, the applicant bears the burden of establishing program eligibility by a preponderance of the credible evidence. Alford v. Somerset Cnty. Welfare Bd., 158 N.J. Super. 302, 310 (App. Div. 1978); In re Polk, 90 N.J. 550, 560 (1982). The Medicaid applicant must: "1. [c]omplete, with assistance from the [county social services agency (CSSA)] if needed, any forms required by the CSSA as a part of the application process; 2. [a]ssist the CSSA in securing evidence that corroborates his or her statements; and 3. [r]eport promptly any change affecting his or her circumstances." N.J.A.C. 10:71-2.2(e). The applicant bears a duty to cooperate fully with the agency in its verification efforts, providing authorization to the agency to obtain information when appropriate. N.J.A.C. 10:71-4.1(d)(3)(i).

While the applicant is the "primary source of information," the agency has the available option to seek verification documents directly from collateral sources to "supplement or clarify essential information." N.J.A.C. 10:71-1.6(a)(2); N.J.A.C. 10:71-2.10(b). "It is well established that State agencies must 'turn square corners' in the exercise of statutory responsibilities with members of [the] public." K.O. v. Div. of Med. Assistance & Health Servs., 2023 N.J. Super. Unpub. LEXIS 1587, *17 (App. Div., Sept. 26, 2023) (quoting W.V. Pangborne & Co. v. N.J. Dep't of Transp., 116 N.J. 543, 561–62 (1989)).[3]

The Board must calculate an applicant's countable income. N.J.A.C. 10:71-5.2. "All income, whether in cash or in-kind, shall be considered in the determination of eligibility" unless it is specifically excluded by regulation. N.J.A.C. 10:71-5.1(b). Deposits of money into an applicant's bank account are not excluded from the calculation of income. N.J.A.C. 10:71-5.3. While a loan by a family member can be excluded if it is "actually repayable[,]" "[r]egular contributions to an individual by his or her family, which are made over an extended period of time and which would be impossible to repay given

[3] Unpublished and administrative decisions are not precedential. This and other decisions are referenced here because they provide relevant guidance.

the individual's current and/or future financial status, shall not be considered loans. Contributions of this nature shall be treated as income[.]" N.J.A.C. 10:71-5.3(a)(6)(i). Irregular or infrequently received unearned income shall be excluded if it totals $60.00 or less per quarter and is received less than twice per quarter "or cannot be reasonably anticipated[.]" N.J.A.C. 10:71-5.3(a)(12)(i). Similarly, earned income totaling "$30.00 or less per quarter and which is received less frequently than twice per quarter or cannot be reasonably anticipated shall be excluded." N.J.A.C. 10:71-5.3(a)(12)(ii). Further, cash gifts shall be included as unearned income, unless they are "[o]ccasional gifts . . . with a value at $20.00 or less[.]" N.J.A.C. 10:71-5.4(a)(8). A gift is defined as "any payment which is neither given as compensation for services or other consideration, nor as satisfaction of any legal obligation to the beneficiary of the gift." N.J.A.C. 10:71-5.4(a)(8)(i).

"Under N.J.A.C. 10:71-2.2, the case worker must communicate with the applicant regarding the claimed deficiencies and then, under N.J.A.C. 10:71-2.10(b), provide an opportunity for the applicant to verify, supplement or clarify the information before denying an application." M.L. v. Essex Cnty. Div. of Fam. Assistance & Benefits, 2025 N.J. Super. Unpub. LEXIS 407, *9 (App. Div. March 18, 2025). In this regard, the caseworker must provide "prompt notification to ineligible persons of the reason(s) for their ineligibility." N.J.A.C. 10:71-2.2(c).

In M.L., 2025 N.J. Super. Unpub. LEXIS 407, the petitioner, a nursing home resident, applied to the Division of Family Assistance and Benefits (DFAB) for Medicaid benefits. The DFAB requested Wells Fargo bank account statements and financial statements for specific months and a pre-admission screening form. Id. at *2–3. The petitioner produced the bank account statements. Although the DFAB did not issue a subsequent request for additional information it denied the application because the petitioner did not provide "financial statements (including bank statements, pre-paid account statements and direct express statements) from April 2018 through September 2020 and explanations for [a] $2,100 ATM withdrawal on 1/4/21, $3,000 withdrawal on 4/5/21 and $2,000 ATM withdrawal on 1/20/2022 all from Wells Fargo Checking Account ending in [xxxx]." Id. at *3. The DFAB did not previously request these items. The administrative law judge (ALJ) reversed the denial, finding that the petitioner substantially

complied with the requests. The DMAHS rejected this conclusion, finding that the denial was appropriate because the petitioner did not produce all of the documents required by the DFAB and "'did not ask for additional time to provide the necessary information, nor was there any documented exceptional circumstance warranting an extension of time to produce the requested documents.'" Id. at *4–5 (quoting October 26, 2023, DMAHS Final Decision).

The Appellate Division reversed. It noted that after the petitioner responded to the DFAB's request for information, the case worker's "duty was to review the pending application and notify petitioner concerning what, if any, additional information was required to make an eligibility determination." Id. at *11. However, the case worker denied the application "and only then informed petitioner his application was deficient." Ibid. In reversing the DFAB and the DMAHS, the court highlighted that "State agencies must 'turn square corners'[.]" Id. at *11. "When this bedrock principle is read together with the above regulations, we easily reach the dispositive legal conclusion: both the DFAB case worker . . . and the petitioner had a duty under the regulations to take affirmative steps to communicate with each other regarding the . . . pending application. The scope of this joint duty clearly includes the parties' efforts to clarify prior communications about a pending application." Id. at *11. The court thus remanded the matter and directed the DHAMS and the DFAB to identify the remaining records needed to verify the petitioner's eligibility; "request, with specificity, any necessary verification documents"; provide a reasonable amount of time for the petitioner to submit the documents; and make a new eligibility determination. Id. at *12.

In J.L. v. Division of Medical Assistance & Health Services, the Medicaid applicant clearly relayed to the board that, despite multiple attempts, she was unable to obtain bank records over which she had no control. Although her husband had power of attorney, the bank would not give him the records. She thus asked the board to help her gather them. Aware of the difficulty, the board represented that it would subpoena the records. The board did not tell her that the bank did not respond to the subpoena,[4] and it did not afford her additional time to attempt to secure the records by other means. Despite this, and

[4] It was later revealed that the Board never served the subpoena.

although the applicant believed the board was pursuing the records, the board denied her application due to her failure to produce them. The Appellate Division reversed the denial, finding that the applicant relied upon the board's representation concerning the subpoena; the board did not do what it said it would do; the board never told her that it did not actually pursue the records; and the board did not tell her that she needed to gather them. For these reasons, the court found that the board did not "turn square corners." 2022 N.J. Super. Unpub. LEXIS 2636 at *13 (December 27, 2022).

In J.P. v. Div. of Med. Assistance and Health Servs. and Atl. Cnty. Dep't of Fam. and Cmty. Dev., 2024 N.J. AGEN LEXIS 779 (September 23, 2024), the DMAHS affirmed the ALJ's conclusion that the county agency improperly denied the Medicaid application. It so concluding, it highlighted that the agency did not identify the deficiencies in the denial notice; did not provide a list of outstanding items after the applicant responded to a request for information; and failed to process relevant documents it received from another agency.

Here, contrary to petitioner's argument, the Board was required to determine petitioner's countable income.[5] This process requires an evaluation of all of the money petitioner received, regardless of source or frequency. It thus needed to learn about the deposits at issue. And, unlike in the above-referenced cases, the Board did not expect petitioner to produce documents it did not request or refuse to help locate documents that were unavailable to petitioner. Rather, petitioner simply failed to provide information that the Board specifically and clearly requested in its request for information. While it would have been better had the Board responded to petitioner's representative's inquiries, it would have simply redirected petitioner to its original request for a written explanation of all deposits. There was nothing more to explain. For all of these reasons, I am constrained to **CONCLUDE** that petitioner failed to produce information required to assess his Medicaid application and has not demonstrated exceptional circumstances that prevented him from doing so.

[5] Petitioner cites N.J.A.C. 10:72-2.3(a)(8) in support of this argument. However, it applies to Special Medicaid Programs and nonetheless does not direct that the Board may not inquire about deposits to applicants' bank accounts.

The Board's delay in requesting information from petitioner must be addressed. Under N.J.A.C. 10:71-2.3(a) and 42 C.F.R. § 435.912 (2025), the Board must determine eligibility for aged applicants within forty-five days and blind and disabled applicants within ninety days. These deadlines "may be extended when documented exceptional circumstances arise preventing the processing of the application within the prescribed time limits." E.M. v. DHAMS and Middlesex Cnty. Bd. of Soc. Servs., OAL Dkt. No. HMA 05068-22, Final Decision at *2 (January 22, 2024). "'It should be understood that exceptional circumstances can arise in determining eligibility for Medicaid. Therefore, if the applicant or their representative continues to cooperate in good faith with the Agency, an extension of the time limit may be permitted.'" Ibid. (quoting Medicaid Commc'n 10-09).

Although not in the record, it appears that the Board approved petitioner's second application after September 2025, when petitioner explained the Zelle deposits. Because the Board issued its request for information for the first application – the one at issue here – almost nine months after the application date, petitioner's subsequent application and approval were similarly delayed. But for this delay, petitioner's application conceivably could have been approved earlier, and he would not have had a significant gap in coverage. Had the Board processed the applicant in a timely manner in accord with N.J.A.C. 10:71-2.3(a) or at least notified petitioner of the delay, as required by N.J.A.C. 1071-2.3(d), petitioner may have been able to address the delay with the Board.

It is also noteworthy that petitioner relied upon his representative to produce the requested information. His representative's supervisor candidly acknowledged that the representative made assumptions about the Board's request. That is, that the Board knew that J.K. is petitioner's daughter and that it should have understood that he did not have income. Petitioner was prejudiced by these assumptions as well as the Board's delay in processing his application.

However, the controlling law does not permit a finding that petitioner should be deemed eligible due to the Board's delay and failure to notify him about the delay. G.O. v. State Dep't of Human Servs., 2006 N.J. Super. Unpub. LEXIS 2467, *6 (App. Div.

September 18, 2006). I am therefore constrained to **CONCLUDE** that petitioner's April 4, 2024, Medicaid application was properly denied.

ORDER

Based upon the foregoing, I **ORDER** that petitioner's Medicaid application is denied.

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.

November 3, 2025
DATE

JUDITH LIEBERMAN, ALJ

Date Record Closed: October 16, 2025

Date Filed with Agency: November 3, 2025

Date Sent to Parties:

APPENDIX

Witnesses

For petitioner:

Miri Rothberg

For respondent:

Kurt Eichenlaub, HSS3/Fair Hearing Liaison

Exhibits

For petitioner:

P-1	Letters from petitioner
P-2	Email, March 27, 2025
P-3	Email, January 14, 2025
P-4	Divorce Decree
P-5	Letter, September 29, 2025
P-6–14	Regulations and Administrative and Court decisions

For respondent:

R-A	Medicaid Application
R-B	Request for Information
R-C	Denial Notice
R-D	Regulations and Medicaid Communications
R-E	Bank statements