



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NOS. HMA 14449-24
AND HMA 02084-25
AGENCY OPC NOS. N/A

J.J.,

Petitioner,

v.

**ATLANTIC COUNTY DEPARTMENT OF
FAMILY AND COMMUNITY DEVELOPMENT,**

Respondent.

(CONSOLIDATED)

Jessica Bulos, Esq., for petitioner (Stotler Hayes Group, LLC, attorneys)

Alysia J. Remaley, Assistant County Counsel, for respondent (N. Lynne Hughes,
County Counsel of Atlantic County, attorney)

Record Closed: September 2, 2025

Decided: September 17, 2025

BEFORE **KATHLEEN M. CALEMMO**, ALJ:

STATEMENT OF THE CASE

Petitioner J.J. originally applied for Managed Long-Term Services and Supports (MLTSS) under the New Jersey FamilyCare Aged, Blind, Disabled Medicaid Program (Medicaid) on July 9, 2021, with the Atlantic County Medicaid Long Term Care Unit (Agency). This consolidated appeal involves applications sixteen and seventeen of the

nineteen applications filed between July 2021 and January 2025. The application filed on July 17, 2024, was denied by the Agency on September 10, 2024, for failure to provide requested information in a timely manner. The application filed on September 30, 2024, was denied by the Agency for the same reason. At the crux of this matter is an unverified Prudential policy number 79696. Petitioner, through her representatives, has been attempting to obtain information about this policy for over three years without success. Petitioner maintains that the information is unavailable, and it is unreasonable to continue this pursuit. Thus, petitioner seeks approval retroactive to April 2024.

PROCEDURAL HISTORY

The Board denied petitioner's July 17, 2024, application on September 10, 2024, and her September 30, 2024, application on November 14, 2024. Petitioner filed a timely appeal of both denials. The Division of Medical Assistance and Health Services (DMAHS) transmitted the matters to the Office of Administrative Law (OAL), where they were filed on October 16, 2024, (HMA 14449-24), and January 29, 2025, (HMA 02084-24), as contested cases. N.J.S.A. 52:14B-1 to -15; N.J.S.A. 52:14F-1 to -13.

At the telephone conference on March 4, 2025, the parties agreed to consolidate the matters. Respondent also informed me of their concern about whether petitioner's Designated Authorized Representative (DAR) had standing. As the standing issue needed to be addressed before the matters could proceed, I entered a briefing schedule. Respondent filed its motion to dismiss on March 28, 2025. I entered an order consolidating the matters on April 7, 2025. On April 11, 2025, Jessica Bulos, Esq. of the Stotler Hayes Group as the attorney DAR submitted her response. Like its previous submission, Stotler Hayes identified itself as "assisting [Complete Care], with respect to the Medicaid eligibility of its resident." On April 14, 2025, the Agency filed its reply. After reviewing the submissions, I held oral argument, via zoom, on May 6, 2025.

After reviewing the matter, I determined that the attorney for the facility could not serve as the DAR. However, petitioner's grandson, who also serves as her Power of Attorney (POA), was given the opportunity to designate a new DAR and through informed consent resolve any actual or potential conflicts of interest that may exist. Thus, on May

9, 2025, I entered an order denying respondent's request to dismiss this matter for lack of standing. Petitioner's POA designated a new DAR and Ms. Bulos continued her representation of the DAR.

The hearing on the consolidated matters was held on July 8, 2025, and the record remained open to allow the parties to submit written closing summations. I closed the record after receipt of the last closing summation on September 2, 2025.

FACTUAL DISCUSSION AND FINDINGS

The following is undisputed. I, therefore, **FIND** the following as **FACT**:

Petitioner J.J. was born on January 11, 1940. After the death of her husband, G.J., on August 11, 2018, she continued to live independently until suffering a fall in 2021. Complications from the fall, including central spinal cord injury resulted in permanent paralysis. J.J. was admitted to Complete Care on September 2, 2021. On December 15, 2021, J.J. executed a POA, naming her grandson, T.J. as her attorney-in-fact and Agent.

J.J.'s first application was received by the Agency on July 9, 2021, and denied on August 4, 2021, because J.J. was over the resource limit.

On May 11, 2022, in a Request for Information to J.J., in care of her grandson, T.J., the Agency requested "[v]erification of transfer and closing of Prudential policies 71602969 and 79696." (R-1, at 59-60.) The policy ending in 79696 was discovered when the Agency reviewed Wells Fargo Bank statements from a joint account ending in 6276 in the names of J.J. and G.J., received during the application process. The bank statement referred to a withdrawal for \$32.55 on November 6, 2017. The description of the withdrawal read: "Bill Pay Prudential on-Line xxx79696." (R-1, at 61.) The Wells Fargo Bank statements revealed monthly withdrawals in different amounts with the last withdrawal occurring on September 26, 2018, in the amount of \$22.05. (P-4.) There is no record of any other transaction involving Prudential xxx79696 after September 26, 2018.

Policy number 71602969 was a life insurance policy owned by J.J. To become Medicaid compliant, she surrendered this policy on May 19, 2023. (R-4.) Prudential sent J.J. a check, dated May 19, 2023, for \$14,339.20, the policy's cash value. Ibid. J.J. used the proceeds for a pre-paid burial contract. This information was verified by the Agency.

In response to a request from Deborah Benz¹, on behalf of J.J., Prudential issued a letter dated December 19, 2023, referenced under Prudential policy number 71602969 (P-3.)

Our records indicate this policy lapsed on August 19, 2021, because we did not receive a required premium payment. Therefore, this policy does not provide any life insurance protection, has no cash value, and cannot be reinstated. This policy no longer has any value.

After a thorough search of our files, we have been unable to locate any other policy in the name of [JJ].

The above response, if it applied to policy number 71602969, made no sense. As stated above and verified by the Agency policy number 71602969 provided a cash value to J.J. in the amount of \$14,339.20. Prudential issued the check to J.J. on May 19, 2023. (R-4.) The information in the letter about a lapsed policy on August 19, 2021, is either a mistake or a reference to a different Prudential policy. There is no indication that petitioner or the Agency questioned this obvious discrepancy.

T.J. testified that he tried his best to help his grandmother obtain Medicaid. He relied on the nursing home representatives for assistance but resisted using his POA to appoint a DAR. T.J. explained that up until her fall, J.J. was independent. When his grandfather died, J.J. used the proceeds from his life insurance policy to pay for his funeral because there was no other money. When J.J.'s life insurance policy number 71602969 was surrendered, T.J. was acting as her POA and involved in the process of qualifying her for Medicaid. He was not aware of any other Prudential policies, but he cooperated with the Agency by contacting Prudential numerous times to try and get information about this unknown policy. As the POA, he was the only one authorized to

¹ Deborah Benz was an employee of Linwood Nursing Home, the facility responsible for J.J.'s care.

speak on J.J.'s behalf. He recounted numerous phone calls with various Prudential representatives. T.J. was raised by his grandmother, and he considers her his only family. His testimony was sincere and his devotion to J.J. was evident. He finally appointed a DAR because he was unable to navigate the Medicaid process without help.

J.J.'s sixteenth application was filed by her DAR, Jennifer Solt, on July 17, 2024. On July 22, 2024, the Agency sent an RFI requesting:

Wells Fargo 6276: Deposited check image 11/17/2017
\$1,326.31

Wells Fargo 9229: Deposited check image 03/24/2017
\$825.55 and 12/16/2016 \$695.59

Wells Fargo 6276: Statements April 24, 2024-present. Please include all check and non-electronic deposit images \$500 and over, including images of deposited checks.

Prudential Life Insurance 79696: Verification of who the policy belongs to and current values or surrender verification.

[R-1, at 40-44.]

A second RFI, dated August 14, 2024, requested the exact same information. (R-1, at 45-49.) The DAR, Jennifer Solt, requested an extension on August 28, 2024, but it was denied. (P-10.)

J.J.'s seventieth application dated September 30, 2024, was denied on November 14, 2024. The first RFI, dated October 2, 2024, mirrored the previous RFI dated August 14, 2024.

On October 7, 2024, DAR Solt emailed the Agency's case worker, Basesmah McDaniel, and provided a copy of the letter previously received from Prudential, dated December 19, 2023. (P-11.) The record is unclear whether this letter had previously been supplied to the Agency. The DAR used this letter as proof that Prudential was "unable to locate any other policy in the name of [J.J.] in our records." (P-3.) In her

responsive email, McDaniel stated that she still needed to know who owns the policy ending in 79696. (P-11.)

The DAR in an email dated October 16, 2024, advised the case worker that because of the bank's seven-year retention policy, documents prior to October 17, 2017, were unavailable. The DAR also informed the case worker that Prudential cannot confirm the owner of policy 79696 without a date of birth or a social security number because searching under the policy number revealed no information. The DAR also stated that J.J. and her POA grandson had no information about the policy and Prudential already confirmed that it did not belong to J.J. (P-11.)

In the second RFI, dated October 22, 2025, the Agency confirmed that the only outstanding item was verification relating to Prudential policy number 79696. (R-1, at 55-58.) The Agency denied the application on November 14, 2024, solely because of the lack of verifying information for the Prudential policy number 79696.

After the Agency denied the application on November 14, 2024, the petitioner's representative issued a subpoena to Prudential dated December 19, 2024, requesting three items: 1) owner and beneficiary information; 2) face value, cash surrender value, and dividends between July 1, 2024 and December 31, 2024; and 3) date of surrender, amount of surrender, and copy of surrender check. (P-5.)

On January 16, 2025, Rosalia Bernal, from Prudential's subpoena response team, sent an email advising that Prudential did not find any records for a policy ending in #79696. She asked for information to aid her search, such as J.J.'s and G.J.'s relationship to the policy. (P-7.) In a responding email dated January 19, 2025, Ms. Bulos explained about the monthly premium payments that appeared regularly in the bank statements ended in September 2018. In this email, the representative provided the date of birth, date of death, and a partial social security number for G.J., so Prudential could search the policy under G.J.'s name. Ibid. As caseworker McDaniel was copied on the email, she responded by correcting G.J.'s date of death but did not provide his full social security number. She also advised that different monthly amounts were paid from the joint bank account, but the description was always Prudential policy number 79696. McDaniel noted

that the only information about this policy came from the bank statements. McDaniel acknowledged that Prudential verified that policy 79696 did not belong to J.J. but did not verify that it did not belong to G.J. McDaniel reminded Prudential that on May 29, 2024, it verified that G.J. was the owner of policy number 71602974, which had been paid out to his beneficiaries, after his death. McDaniel ended the email by stating that she had not received verification whether policy 79696 belonged to G.J. and was paid out to his beneficiaries. Ibid.

By letter dated March 9, 2025, Prudential provided the correct information regarding the cash surrender of policy number 71602969 on May 19, 2023, without correcting or referencing its prior inaccurate response in its letter dated December 19, 2023 (P-3).

We received a request from Deborah Benz² regarding the status of this policy.

Our records indicate we issued this policy on September 19, 1985, and the policyowner subsequently cash surrendered the policy on May 19, 2023. We sent the policyowner a check (check number 1642847771 for \$14,339.20) for the policy's cash value. Therefore, the policy no longer provides any life insurance protection, and the policy no longer has any value.

[R-4.]

On May 29, 2024, Prudential verified that policy number 71602974 belonged to G.J. It was paid out to his beneficiary after his death. This information was previously verified by the Agency.

In response to the December 19, 2024, subpoena, Prudential issued a Certification of No Record (P-9):

We conducted a search for a life insurance policy identified in the subpoena dated December 19, 2024 ending in 79696 and were not able to locate any documents, records or information responsive to this request. This may be because we never had responsive documents, records or information in our possession, custody or control or that the said documents,

² Deborah Benz is an employee of the facility where J.J. resides

records or information have surpassed applicable retention periods and are no longer available.

Therefore, to the best of my knowledge, there are no information to produce for this request.

[P-9.]

The Agency determined that the December 19, 2024, subpoena was insufficient because it did not reference all necessary dates. Petitioner issued a second subpoena to Prudential, dated March 25, 2025, asking for another review and an affidavit of verification. (P-8.) By email, dated June 25, 2025, Bernal from Prudential mentioned that the identifying numbers on the bank statements may not be a policy number. In the email chain, petitioner's representative reiterated that she did not have the full social security number for G.J. Only then did the Agency representative provide G.J.'s full social security number. Ibid.

LEGAL ANALYSIS AND CONCLUSION

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).

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).³ While the Medicaid applicant is "the primary source of information[,] . . . it is the responsibility of the agency to make the determination of eligibility and to use secondary sources when necessary, with the applicant's knowledge and consent." N.J.A.C. 10:71-1.6(a)(2). "If the applicant's resource statements are questionable, or there is reason to believe the identification of

³ On appeal, petitioner must prove his eligibility by a preponderance of the credible evidence. In re Polk, 90 N.J. 550, 560 (1982).

resources is incomplete, the CWA [board of social services] shall verify the applicant's resource statements through one or more third parties." N.J.A.C. 10:71-4.1(d)(3).

If verification is required in accordance with the provisions of N.J.A.C. 10:71-4.1(d)(3), the CWA shall . . . verify the existence or nonexistence of any cash, savings or checking accounts, time or demand deposits, stocks, bonds, notes receivable or any other financial instrument or interest. Verification shall be accomplished through contact with financial institutions, such as banks, credit unions, brokerage firms and savings and loan associations. Minimally, the CWA shall contact those financial institutions in close proximity to the residence of the applicant or the applicant's relatives and those institutions which currently provide or previously provided services to the applicant.

[N.J.A.C. 10:71-4.2(b)(3).]

Thus, while the "primary obligation" is on petitioner, the Board 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.

"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 applicant." M.L. v. Essex Cnty. Div. of Fam. Assistance & Benefits, 2025 N.J. Super. Unpub. LEXIS 407, *8 (App. Div. March 18, 2025).⁴ 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).

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. However, 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.,

⁴ Unpublished and administrative decisions are not precedential. This and other decisions are referenced here because they provide relevant guidance.

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 Communication 10-09.)

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. DFAB requested Wells Fargo bank account and financial statements for specific months, and a Pre-Admission Screening form. Id. at *2. Petitioner produced the bank account statements. DFAB did not issue a subsequent request for additional information. It ultimately denied the application because 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 \$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 *2-3. While the ALJ reversed the denial, DMAHS instead found that petitioner did not produce all the documents required by 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.

The Appellate Division reversed this. It noted that after petitioner responded to 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 *10. However, the case worker denied the application "and only then informed petitioner his application was deficient." Ibid. In reversing DFAB and DMAHS, the court highlighted that "state agencies must 'turn square corners' in the exercise of statutory responsibilities with members of the public." Id. at *9 (quoting W.V. Pangborne & Co., v. N.J. Dep't of Transp., 116 N.J. 543, 561-62 (1989)). "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 *9–10. The court thus remanded the matter and directed the DHAMS and DFAB to identify the remaining records needed to verify petitioner's eligibility; "request, with specificity, any necessary verification documents"; provide a reasonable amount of time for petitioner to submit the documents; and make a new eligibility determination. Id. at *10.

Here, the Agency had limited information about Prudential policy number 79696 since May 11, 2022, when it issued the first RFI. I accepted T.J.'s uncontradicted testimony that as J.J.'s POA, he made numerous telephone calls to Prudential about this unknown policy and cooperated with the Agency and his appointed DARs. There was clearly communication with the Agency about the prudential policies and verification of the two life insurance policies. The Prudential letter, dated December 19, 2023, was a missed opportunity. The detailed information in that letter about an unknown lapsed policy was never pursued. Prudential verified that policy number 71602969 was the only policy in the name of J.J. and the Agency accepted that representation but continued to push for verification of policy 79696.

Repeating the same request in seventeen applications is not helpful or productive. The Agency never requested that the inquiries to Prudential include G.J. It was not until after the denial of the seventeenth application, that the caseworker stated that she needed a verification from Prudential for G.J. The Agency had G.J.'s personal identification information and could have requested this information much sooner.

The matter was complicated because the only information about "79696" came from bank statements that ended in September 2018. The paper trail ended one month after the death of J.J.'s husband. In retrospect, the letters to Prudential should not have referenced the known insurance policy number of 71602969 because it confused the issue. Failure to challenge the information contained in the December 19, 2023, letter (P-3) and failure to pursue all policies under the social security numbers for J.J. and G.J. led to the needless delays in processing J.J.'s numerous applications.

The October 7, 2024, email exchange between the DAR, Solt, and the case worker, McDaniel, changed the focus from J.J. to G.J. as the owner of 79696. (P-11.) After Solt presented the letter which stated that Prudential was “unable to locate any other policy in the name of [J.J.] in our records” the Agency’s response was insufficient. (P-3.) The Agency responded that it still needed to know who owns the policy ending in 79696 (P-11), and offered no assistance, not even providing G.J.’s social security number.

Petitioner’s representatives tried for over three years to find out any information about “79696.” The letters from Prudential stated that their searches produced no information. Instead of offering guidance or assistance, the Agency repeated the same request for information in multiple RFIs over a period of three years. Clearly, by October 7, 2024, the Agency was satisfied that all avenues for J.J. had been exhausted. To begin searching under G.J.’s name, when his identity was known to the Agency since the inception, was unreasonable.

Outstanding at the time of the denial of the application, dated July 17, 2024, were deposited check images from three checks that could not be produced because they were outside the Bank’s retention policy and the unknown Prudential policy number 79696. The DAR, Jennifer Solt, requested an extension on August 28, 2024, but it was denied. (P-10.) Because Solt provided no reason for her request for an extension, the Agency’s denial conformed with the regulations. While the overall history of this matter shows continued cooperation, there is nothing in the record to support that the DAR addressed the two RFIs served by the Agency under this application. The only record of the DAR’s response was dated October 7, 2024, which was after the denial and in response to the RFI under the September 30, 2024, application. Therefore, without a response from the DAR to consider, I must **CONCLUDE** that the Agency’s actions in denying the July 17, 2024, application for failure to provide was appropriate.

These same considerations do not apply with respect to the September 30, 2024, application. On October 7, 2024, the DAR provided an acceptable explanation why the check images could not be produced and verification that J.J. had no other policies with Prudential. Whether a search using social security numbers for J.J. and G.J. would have produced any information is unknown. However, the Agency never made or even

suggested that the petitioner conduct a search in that fashion. The Agency continued to make an unreasonable demand that petitioner produce the owner of the policy, after petitioner had complied to the best of her ability to find this information.

I also note that the subpoena dated December 19, 2024, provided justification for the Agency to extend the deadline under the September 30, 2024, application.

Accordingly, I **CONCLUDE** that the Agency's continued request for verification of policy number 79696 became unreasonable. Absent this document, there was nothing to substantiate the Agency's position denying the application on November 14, 2024, for failure to provide. It is therefore appropriate for the Agency to reopen the seventeenth application and evaluate petitioners' eligibility, without regard to policy 79696. If the Board again denies the applications after this evaluation, petitioners may appeal that determination.

ORDER

Based upon the foregoing, the decision of the Atlantic County Medicaid Long Term Care Unit denying the petitioner Medicaid under the application dated July 17, 2024, is **AFFIRMED**, and the appeal is **DENIED**.

It is **FURTHER ORDERED** that the decision of the Atlantic County Medicaid Long Term Care Unit denying the petitioner Medicaid under the application dated September 30, 2024, is **REVERSED**, and the appeal is **GRANTED** to the extent that the Board shall reopen this application and evaluate petitioner's eligibility using the relevant documents that were produced.

I hereby **FILE** my initial decision with the **DIRECTOR OF THE DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES** for consideration.

This recommended decision may be adopted, modified or rejected by the **DIRECTOR OF THE DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES**, the designee of the Commissioner of the Department of Human Services, who by law is

authorized to make a final decision in this matter. If the Director of the Division of Medical Assistance and Health Services does not adopt, modify or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **DIRECTOR OF THE DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES, Mail Code #3, PO Box 712, Trenton, New Jersey 08625-0712**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.

September 17, 2025

DATE

Kathleen M. Calemno

KATHLEEN M. CALEMMO, ALJ

Date Filed with Agency:

Date Sent to Parties:

KMC/tat

APPENDIX

Witnesses

For petitioner:

T.J.
Danielle Starn, DAR

For respondent:

Mary Lange, Administrative Supervisor

Exhibits

For petitioner:

- P-3 Prudential letter, dated December 19, 2023
- P-4 Wells Fargo statements – September 28, 2018 - October 19, 2018
- P-5 Subpoena, dated December 19, 2024
- P-6 Subpoena, dated March 19, 2025
- P-7 Emails between January 6, 2025, and January 22, 2025
- P-8 Emails between June 23, 2025, and July 3, 2025
- P-9 Prudential's Certification of No Records
- P-10 Emails regarding extension request, dated August 28, 2024, and denial
- P-11 Emails with attachments between October 7, 2024, and October 16, 2024

For respondent:

- R-1 Fair Hearing Packet
- R-2 Emails between June 23, 2025, and July 7, 2025
- R-3 Prudential letter, dated March 9, 2024, and check statement
- R-4 Verification of policy number 7160294 for G.J.