



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. HMA 15109-25

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

L.L.

Petitioner,

v.

CUMBERLAND COUNTY BOARD
OF SOCIAL SERVICES

Respondent.

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

For respondent: Sandi VanCulin, Fair Hearing Liaison

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):

Life insurance policy with cash and face value; two mobile deposits made in 2019, one for \$3,588.14 and the second for \$13,457.25; and payment to a law firm on June 11, 2019, in the amount of \$2,000.

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

Petitioner's application date was April 4, 2025. Because petitioner had previously applied for Medicaid as an institutionalized individual, her look back period was the five years prior to her first application in May 2024, under N.J.A.C. 10:71-4.10(b)(9). Although there was initial confusion between the DAR and the case worker, the Agency corrected the information, and the error had no bearing on the outcome of this matter.

The Agency must verify all factors related to eligibility, including all sources of income and resources. N.J.A.C. 10:72-2.3(a). Although the Request for Information (RFI) was not issued until June 27, 2025, the outstanding documents had also been requested with the first application. In an email dated July 14, 2025, the DAR expressed concern over the Merrill Lynch statements because she had been trying to get them since February 11, 2025. (R-1, at 26.) The petitioner protested the Agency's grant of only a four day extension, but was able to submit the Merrill Lynch statements on July 17, 2025. In the email submitting the Merrill Lynch statements, the DAR also asked if additional information was needed, without addressing the other outstanding items on the RFI. (P-1, at 6.)

When the four remaining items from the RFI were not received, the Agency denied the application on July 22, 2025. The DAR sent an email on July 24, 2025, explaining that she had made a mistake and there was no life insurance policy. The DAR also admitted that the outstanding items were on the RFI and also on an email from the case worker dated July 14, 2025, but she had mistakenly overlooked it. (R-1, at 26-27.) There were no extenuating circumstances for the two mobile deposits from 2019. DAR candidly acknowledged that when she requested the verifications for the 2019 mobile deposits, she received them within a few days.

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 8, 2025

DATE

Date Record Closed:

Date Filed with Agency:

Date Sent to Parties:



KATHLEEN M. CALEMMO

, ALJ

11/19/2025

APPENDIX

Witnesses

For Petitioner:

Melissa Morgan, Medicaid Supervisor

For Respondent:

Chaya Chavoly, DAR

Exhibits

For Petitioner:

- P-1 Emails between DAR and Agency
- P-2 March 2025 Bank Statement
- P-3 Verifications of Deposits

P-4 through P-9 - Regulations and Medicaid Communications

P-10 through P-13 - Supporting decisions

For Respondent:

R-1 Fair Hearing Packet: Denial Letter; regulations; Validation Report; Medicaid Communications; RFI dated June 27, 2025; Bank Statements; Application dated April 2, 2025; and Emails.