



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. HMA 15781-2024

AGENCY DKT. NOS. N/A

L.T.,

Petitioner,

v.

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

Respondent.

Simon P. Wercberger, Esq. for petitioner (Law Office of Simon P. Wercberger,
attorney)

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

Record Closed: August 8, 2025

Decided: September 24, 2025

BEFORE **CARL V. BUCK III**, ALJ:

STATEMENT OF THE CASE

Petitioner, L.T. appeals the decision of respondent Atlantic County Department of Family and Community Development (ACBSS or Board or County) to deny her application

for Medicaid benefits on the grounds that she failed to provide requested information and/or verifications, under 42 C.F.R. § 435.952.¹

PROCEDURAL HISTORY

Petitioner applied for Medicaid benefits on July 31, 2024. Her application was denied by respondent for failure to provide requested information on October 22, 2024. Petitioner appointed Sarah Finkel (Finkel), as her designated authorized representative (DAR) on October 29, 2024. On or about October 29, 2024, the petitioner requested a fair hearing, and the Division of Medical Assistance and Health Services (DMAHS) transmitted this matter to the Office of Administrative Law (OAL), where it was filed on November 7, 2024, as a contested case. N.J.S.A. 52:14B-1 to -15; N.J.S.A. 52:14F-1 to -23. This matter was docketed as HMA 15781-2024 and assigned to me. The hearing, originally scheduled for February 5, 2025, then February 12, 2025, then February 28, 2025, then May 21, 2025, was adjourned at petitioner's request and ultimately occurred on June 10, 2025. The record was held open for submissions and was closed on August 7, 2025. A request for an extension to issue this initial decision was requested and received.

FACTUAL DISCUSSION AND FINDINGS

At the hearing, petitioner presented the testimony of Finkel, her DAR, and respondent presented the testimony of Mary Lange, supervisor, Long Term Care Medicaid Unit. As petitioner's DAR, Finkel is **AUTHORIZED** to pursue this appeal and, therefore, I **FIND** that standing is established.

Based on the testimonial and documentary evidence, I **FIND** the following **FACTS** as undisputed:

On July 31, 2024, petitioner applied for Medicaid with respondent. P-1. By letter, dated August 22, 2024, respondent issued a Request for Information (RFI) that requested

¹ Respondent's action is also supported by N.J.A.C. 10:71-2.2(e).

information from petitioner, all bank statements for a TD Bank account, a Wells Fargo account, and statements from any closed accounts within the five year lookback period. The Board also requested:

Please provide all check and non-electronic deposit images \$500.00 and over, including images of deposited checks."

This information was due on or before September 5, 2025.

The second RFI, dated September 30, 2025, requested all copies of checks or deposit images needed after the TD Bank and Wells Fargo statements were submitted to the respondent. As it was revealed that a previously unknown account, at Bank of America, belonged to the petitioner, all statements associated with that account were requested. The County again specifically requested "Please provide all check and non-electronic deposit images \$500.00 and over, including images of deposited checks."

This information was due on or before October 14, 2025.

On October 14, 2024, the Board received the images of a number of the deposited checks (with two remaining outstanding) and the most recent bank statements from the TD Bank account and Wells Fargo account.

From those deposit images, it was determined that petitioner had a National Life Policy and Met Life Policy. These policies were not disclosed on petitioner's application. The new statements disclosed that petitioner had received a lump sum from a previously undisclosed brokerage account which led to additional questions from the Board.

On October 22, 2024, respondent sent petitioner a notice of denial of Medicaid eligibility as "Individual failed to provide requested information required to determine eligibility in a timely manner. 42 C.F.R. 435.952" (P-30). Eighty-three days had elapsed since the date of petitioner's application.

LEGAL ANALYSIS AND CONCLUSIONS

Congress created the Medicaid program under Title IX of the Social Security Act, 42 U.S.C. §§ 1396 to 1396w-5. Medicaid is funded by the federal government and administered by the states, including New Jersey. A.K. v. Div. of Med. Assistance & Health Servs., 350 N.J. Super. 175 (App. Div. 2002). Participating states must establish Medicaid eligibility standards that conform to the parameters of the federal statute and the regulations promulgated by the Secretary of Health and Human Services. Wisconsin Dep't of Health & Family Servs. v. Blumer, 534 U.S. 473, 479 (2002). New Jersey participates in Medicaid through the New Jersey Medical Assistance and Health Services Act. N.J.S.A. 30:4D-1 et seq. The Commissioner of the Department of Human Services has promulgated regulations implementing New Jersey's Medicaid Only program to include income and resource eligibility standards. N.J.A.C. 10:71-1.1 to -9.5.

Resource eligibility is based on an examination of "any real or personal property which is owned by the applicant . . . and which could be converted to cash to be used for his or her support and maintenance. Both liquid and nonliquid resources shall be considered in the determination of eligibility[.]" N.J.A.C. 10:71-4.1(b).

The maximum period normally essential to process a Medicaid application is forty-five days for the aged, and ninety days for the disabled or blind. N.J.A.C. 10:71-2.3(a). It is recognized that there will be situations where the proper processing of the application cannot be completed within the pertinent time limit. N.J.A.C. 10:71-2.3(c). Where substantially reliable evidence of eligibility is still lacking at the end of the designated period, the application may be continued in pending status. N.J.A.C. 10:71-2.3(c). An application may be continued in pending status where a determination has been made to afford the applicant, whose proof of eligibility has been inconclusive, a further opportunity to develop additional evidence of eligibility before final action on his or her application. N.J.A.C. 10:71-2.3(c)(2).

This regulation, N.J.A.C. 10:71-2.3, allows respondent to appropriately reject the Medicaid application of an individual who has the means and capacity to timely complete the application and fails to do so, and gives respondent the discretion to extend regulatory deadlines under exceptional circumstances. Petitioner argues that such exceptional circumstances are

found here, as third party banks and companies controlled access to the needed information and did not respond in a timely manner.

Once the bank statements were submitted, respondent found that petitioner had not disclosed information regarding insurance policies and disbursement from a brokerage account. Again, respondent's first request for information regarding large and/or recurring transactions shown in bank statements was made on September 5, 2024. The request was renewed on September 30, 2024. The documentary record includes no correspondence from petitioner regarding these transactions prior to the October 14, 2024, submission by petitioner which led to the discovery of these insurance accounts and the disbursement.

Petitioner argues that the agency should have found exceptional circumstances meriting extensions, as the delays in obtaining information were "wholly outside the control" of both parties. See N.J.A.C. 10:71-2.3(c)(4). Petitioner's counsel also argues that the Board did not perform their duty of "assisting the applicant", stating:

Where an applicant's representative is cooperating with the County and where "further verifications were necessary as the agency infers, those efforts itself. . . constituted exceptional circumstances within the meaning of Medicaid Communication 10-09" necessitating an additional RFI. A.R. v. Monmouth County Division of Social Services, HMA 11763-24, Initial Decision, deemed Final Agency Decision, February 11, 2025 (**Exhibit C**). Under M.L., *supra*, a County must make any requests for additional documents with specificity. The failure to send an additional RFI for new information the County determined it needed is fatal to the denial and must result in reopening the application. *See*, E.G. v. Hudson, Final Agency Decision, May 21, 2019, OAL Dkt. No. HMA 00868-18, on remand HMA 13407-17 (Initial Decision reversed as a matter of law where the Social Services Department did not sufficiently establish that it requested the evidence it based the denial on prior to denying the application) (**Exhibit D**). Thus, as matter of law, the County's denial based on Sections 4(b)-(d)² must be reversed as a matter of law, because the County conceded that it never requested this information prior to issuing the denial.

² See Footnote 1.

Notwithstanding the premise that the County should assist in the application process, the argument is specious. When matters known to applicant, are not revealed until some seventy-five days after the application is made, the fact that the County will not continue with an information gathering process is justifiable. These insurance policies were known to the DAR who stated, paraphrasing, "I did not know I had to include information about a closed life insurance policy." The responsibility of the County is to assist – not to teach an applicant (particularly one who stated she had two years of experience with these processes), what an asset is.

I **FIND** that petitioner did not prove by a preponderance of the credible evidence that she timely provided all the required documentation under N.J.A.C. 10:71-2.2(e) and -2.3(a), nor did she prove that exceptional circumstances exist under N.J.A.C. 10:71-2.3(c); therefore, I **CONCLUDE** that petitioner did not prove by a preponderance of the credible evidence that respondent erred in denying her Medicaid application under N.J.A.C. 10:71-2.2(e).

ORDER

I hereby **ORDER** that the decisions of respondent Atlantic County to deny the application of petitioner L.T. for Medicaid is **AFFIRMED**, and the appeal of petitioner is **DISMISSED**.

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 24, 2025
DATE



CARL V. BUCK III., ALJ

Date Filed with Agency:

Date Sent to Parties:

CVB/tat

APPENDIX

WITNESSES

For petitioner:

Sarah Finkel

For respondent:

Mary Lange

EXHIBITS

For petitioner

P-4 – P-6 August 22, 2024, Request for information
P-7 September 5, 2024, Response to RFI cover letter
P-8 – P-11 September 30, 2024, Request for information
P-12 October 14, 2024, Response to RFI cover letter
P-13 – P-19 Statements for account ending in 9067 (misidentified by the County
as 5685)
P-20 – P-24 Denial letter
P-25 – P-29 Deposit slip with alleged missing checks – March 27, 2020
P-30 – P-32 Deposit slip with alleged missing checks – February 17, 2021
P-33 – P-36 Subpoena to Wells Fargo
P-37 – P-38 Response from Wells Fargo to the subpoena
P-39 – P-54 N.J.A.C. 10:71-2.2
P-55 – P-59 M.L. v. Essex, Docket No. A-0884-23, Appellate Decision
P-60 – P-64 J.P. v. DMAHS, Docket No. HMA 02735-2024, Final Agency
Decision
P-65 – P-68 42 CFR 435.952

For Respondent:

R-1 Packet