



**State of New Jersey**  
OFFICE OF ADMINISTRATIVE LAW

**INITIAL DECISION**

OAL DKT. NO. HMA 13742-25

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

L.T.

Petitioner,

v.

Union County Board of Social Services

Respondent.

For petitioner: Simon P. Wercberger, Esq. for petitioner (Law Office of Simon Wercberger, LLC, attorneys)

For respondent: Steve Hockaday, Deputy County Counsel, for petitioner (Bruce H. Bergen, Esq., Union County Counsel, attorney)

BEFORE: Bindi Merchant, 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):

Petitioner failed to provide statements from the bank account or direct express account with L.T.'s Social Security Assistance income deposited from January 14, 2023 to December 31, 2023 showing withdrawals, balances and deposits.

**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 representative was in communication with the Union County worker and advised the worker that she was unaware of where L.T.'s SSA payments were being deposited. She provided all the information that she had in her possession to process the application. Ultimately, the representative found out that the payments were going to L.T.'s daughter and provided the statements she received. While the materials were provided late, there were exceptional circumstances testified to in this matter.

**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.

12/09/2025

DATE

Date Record Closed:

Date Filed with Agency:

Date Sent to Parties:



Bindi Merchant

, ALJ

12/09/2025

12/09/2025

12/09/2025

**APPENDIX**

**Witnesses**

**For Petitioner:**

Tzipora Kilberg, Designated Authorized Representative

**For Respondent:**

Sandra Arevalo, Human Services Specialist 3

Exhibits

For Petitioner:

- P-1 Denial letter
- P-2 Comerica Request
- P-3 E-mails between DAR and the County
- P-4 Adroit Care RFMS
- P-5 Clara Barton RFMS
- P-6 M.L. v. Essex, Appellate Decision, Docket No. A-0884-23

For Respondent:

- R-1 Fair Hearing Packet