



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. HMA 08050-25

***New Jersey Care . . . Special Medicaid
Excess Resources Appeal
N.J.A.C. 10:72-4***

R.F.

Petitioner,

v.

MIDDLESEX COUNTY BOARD
OF SOCIAL SERVICES

Respondent.

For petitioner: Ryann Siclari, Esq. DAR

For respondent: Betsy Abreu, Human Services Specialist 3

BEFORE: Advia Knight Foster, ALJ

STATEMENT OF THE CASE

Respondent denied petitioner's Special Medicaid application due to excess resources under N.J.A.C. 10:72-4.5.

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:

- (1) Petitioner's **available and countable resources** total \$⁰ _____
(N.J.A.C. 10:72-4.5; N.J.A.C. 10:71-4)
- (2) The applicable **resource eligibility standard** under N.J.A.C. 10:72-4.5 is:
☐ \$4,000 (Individual) ☐ \$6,000 (Couple)
- (3) Petitioner's **date of resource eligibility** is 12/01/2024 (fill in if
resources under applicable standard) (N.J.A.C. 10:72-4.5; N.J.A.C. 10:71-4.5)

III.

- ☐ I **CONCLUDE** that petitioner is over the applicable resource limit and is therefore resource **INELIGIBLE** for Special Medicaid benefits under N.J.A.C. 10:71-4.5.
- ☒ I **CONCLUDE** that petitioner is not over the applicable resource limit and is therefore resource **ELIGIBLE** for Special Medicaid benefits as of 12/01/2024 (fill
in date of eligibility) under N.J.A.C. 10:72-4.5.

ADDITIONAL FINDINGS OF FACT/CONCLUSIONS OF LAW

In DM v. Monmouth County Div. of Soc. Serv., OAL Dkt. No. HMA-01779-24 (June 7, 2024), petitioner had a Special Needs Trust in which "petitioner was not the grantor, the trust was not funded by any of petitioner's assets, a trustee other than petitioner had the sole discretion to disburse the trust funds, and petitioner could not compel the distribution of the corpus or income, and petitioner was not the beneficiary of any remaining funds upon the trust's termination." Therefore, the trust was an excludable resource under N.J.A.C. 10:71-4.4(b)(6). Moreover, for the trust section under N.J.A.C. 10:71-4.11 to apply, petitioner must fund part of the trust. In that case, the respondent argued that petitioner did not meet his trust obligations under N.J.A.C. 10:71-4.11(g). However, because the entire section of N.J.A.C. 10:71-4.11 was not applicable, there was no obligation to meet the criteria under N.J.A.C. 10:71-4.11(g). The same is true here. In this case, R.F.'s grandparents set up a Third-Party Trust for R.F., their sixteen-year-old grandson (petitioner). Petitioner did not use any of his assets to fund the trust. Under N.J.A.C. 10:71-4.11(d), if petitioner did not help fund the trust, the trust provisions found in N.J.A.C. 10:71-4.11 are not applicable. Therefore, there was no obligation that petitioner satisfy the obligations set forth under N.J.A.C. 10:71-4.11(g). Moreover, because R.F. could not direct distributions or revoke the trust, the resources were not available under N.J.A.C. 10:71-4.1(c)(1). Finally, since the resources were not accessible to R.F., they were excludable under N.J.A.C. 10:71-4.4(b)(6).

ORDER

I **ORDER** that:

- ☐ Petitioner's appeal is **DISMISSED** because petitioner has **NO STANDING**.
- ☐ Petitioner is resource **INELIGIBLE** for Special Medicaid benefits under N.J.A.C. 10:72-4.5.
- ☒ Petitioner is resource **ELIGIBLE** for Special Medicaid benefits as of 12/01/2024 (fill in date of eligibility) under N.J.A.C. 10:71-4.5.

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.

08/22/2025

DATE

Date Record Closed:

Date Filed with Agency:

Date Sent to Parties:



Advia Knight Foster

ALJ

08/15/2025

APPENDIX

Witnesses

For Petitioner:

None

For Respondent:

Betsy Abreu, Human Services Specialist, 3

Exhibits

For Petitioner:

R-1 letter brief dated July 16, 2025

For Respondent:

Ex.A ADB Renewal Application dated December 18, 2024
Ex.B Adverse Notification dated April 8, 2025
Ex.C Special Needs Trust dated December 17, 2019
Ex.D Copy of Regulation N.J.A.C. 10:71-4.11