State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION
OAL DKT. NO. HMA 06313-25
AGENCY DKT. NO. N/A

S.K.,

Petitioner,

v.

MIDDLESEX COUNTY BOARD OF SOCIAL SERVICES,

Respondent.

Eliyahu Pekier, Esq., for petitioner (Law office of Simon P. Wercberger, LLC, attorneys)

Carrie Flanzbaum, Human Services Specialist 3, for respondent, pursuant to N.J.A.C. 1:1-5.4(a)(3)

Record Closed: August 5, 2025 Decided: August 26, 2025

BEFORE **JOAN M. BURKE**, ALJ:

STATEMENT OF THE CASE

Petitioner's designated authorized representative, Rachel Jacobs, appeals the determination of the Middlesex County Board of Social Services (MCBSS) and the Division of Medical Assistance and Health Services (DMAHS) in denying the petitioner's

application for Medicaid under New Jersey Family Care (NJFamilyCare) Medicaid Managed Long Term Services and Support (MLTSS) on the basis that petitioner failed to provide documentation to verify eligibility.

PROCEDURAL HISTORY

The petitioner made a timely request for a fair hearing and the matter was transmitted to the Office of Administrative Law (OAL), where it was filed on April 10, 2025, to be heard as a contested case. N.J.S.A. 52:14B-1 to -15 and N.J.S.A. 52:14F-1 to -13. Hearings were scheduled on the matter for June 10, 2025, and July 9, 2025, but those dates were adjourned. The hearing was held on August 5, 2025, by telephone, and the record was closed on that day.

DISCUSSION AND FINDINGS OF FACT

Testimony

Carrie Flanzbaum (Flanzbaum), Human Services Specialist 3, testified that the petitioner submitted an application for NJFC Aged, Blind Disabled program on April 15, 2024. On January 29, 2025, a request for information was sent to the petitioner. (R-B.) Some documents were received but information regarding a transfer into an account ending in #1731 was not received. On February 13, 2025, the application was denied. Flanzbaum was asked why there was a nine-month delay in reviewing the application. She responded that there was a backlog. Flanzbaum was asked if they had verified that account # ending in 1731 did not belong to the petitioner using the [1]Asset Verification System (AVS) and she said yes. Flanzbaum said an RFI was not sent because the petitioner should have known that the account number ending #1731 was not from Chase Bank but from Wells Fargo.

[1] AVS- federal regulations found under Section 1940 of the Social Security Act[42 USC 139w] and new jersey State regulations under 10:71-4.2(b)3 require the verification of liquid assets held in financial institutions for purposes of determining Medicaid eligibility for applicants or beneficiaries under the NJ FamilyCare-Aged, Blind and Disabled (ABD) Medicaid programs. As a result, New jersey contracted with an electronic Asset Verification System (AVS) as of July 2016, which coordinates with financial institutions to detect and verify bank accounts based on identifiers including Social Security Numbers. See Medicaid Communication No. 17-16

Rachel Jacobs (Jacobs), works for Future Care Consultants and is the designated authorized representative (DAR) for petitioner, S.K. She testified that the petitioner filed an application for NJFC Aged, Blind Disabled program on April 15, 2024. Jacobs followed up with the respondent on numerous occasions (July 29, 2024; August 6, 2024; August 15, 2024; August 19, 2024; September 3, 2024; October 11, 2024, and December 26, 2024). On each of these follow-ups Ms. Jacobs asked if there were any updates on the case and requested the respondent to let her know if there are any further requests for additional information. (See P-1, 001-004.)

Only once, on August 19, 2024, a response from Francesca Figala, the Human Services Specialist 1, at the Board, emailed the DAR and stated that "this case is still pending." (P-1 at 003.) On January 15, 2025, the respondent sent a Request for Information (RFI). Included among the various documents requested was the following:

> Our records indicate a significant change in balance for Chase Bank Account #...9906 between the months of: 8/1/2020 to 9/30/2020; 4/1/2021 to 6/30/2021; 3/1/2023 to 5/31/2023. Please provide all pages of bank statements for these months (can still be requested even if the account is closed), along with written explanation and verification of all irregular transactions. Provide verification for all deposit transactions such as check images for checks deposited, deposit slips for cash deposits along with a written explanation detailing source of funds, and written explanation of Zelle deposits of why money was given. Provide verification for all withdrawal transactions through receipts for items purchased, bills paid with money withdrawn, or a written explanation detailing how funds were spent.
>
> [R-B.]

These documents were due on January 29, 2025. On January 30, 2025, the DAR provided some information and requested an extension. There was an issue that involves an account ending in 1731 and account ending in 9906. The petitioner received documents from Chase Bank. They did not receive any information on the account ending in 1731. Petitioner followed up with a subpoena to Chase Bank on January 29, 2025, requesting the additional information on account 1731. Petitioner requested and was

granted an extension to February 13, 2025. On February 5, 2025, Chase Bank reported that they had no account in the petitioner's name under 1731. This email response from Chase Bank was sent to MCBSS on February 13, 2025. The MCBSS did not request any further information, instead they denied the petitioner's application on February 13, 2025, for failure to submit documents timely.

Petitioner argues that they did not receive a second RFI to let them know that the response from Chase Bank was not enough and the account numbers were from another bank, Wells Fargo. Had they known this, they would have obtained the information promptly. In addition, MCBSS took nine months to review the application thereby failing to comply with the regulations.

Based upon a review of the regulations and after due consideration of the documentary evidence presented at the hearing and in petitioner's post-hearing submission, I **FIND** as **FACT** the following:

1. The petitioner submitted an application on February April 15, 2024. (R-A.)

2. On January 15, 2025, a request for information was sent to the petitioner. (R-B.) This information was due on January 29, 2025. Ibid.

3. On January 29, 2024, the petitioner requested and was granted an extension. (P-1.)

4. Petitioner's representative subpoena Chase Bank regarding information on all accounts held for the petitioner to include jointly held accounts with his ex-wife.. (P-1 at 15-16.) On January 29, 2025, the DAR sent an urgent notice to Chase Bank stating they requested all the accounts on the petitioner but they failed to send the account ending in 1731. (P-1 at 9.)

5. On February 5, 2025, Chase Bank notified the petitioner that they were unable to locate records responsive to the subpoena. (P-1 at 10)

Petitioner sent Chase Bank's response to the respondent on February 13, 2025.

6. On February 13, 2025, the petitioner's representative notified the petitioner that his application was denied. (R-C.)

7. The petitioner was divorced on February 6, 2018. (P-1 at 12.)

8. The bank account ending in #1731 belonged to the petitioner's ex-wife. (P-1, at 17-19.)

DISCUSSION AND CONCLUSIONS OF LAW

The issue is whether MCBSS correctly denied petitioner's application for Medicaid under NJFamilyCare due to untimely submission of documentation.

Medicaid is a federal program under Title XIX of the Social Security Act, 42 U.S.C.A. §§ 1396 to 1396w-5. The program 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). New Jersey participates in Medicaid through the New Jersey Medical Assistance and Health Services Act, N.J.S.A. 30:4D-1 to -19.5. Consistent with the recognized policy that Medicaid is designed for needy individuals, the New Jersey Legislature has directed that Medicaid benefits "shall be last resource benefits notwithstanding any provisions contained in contracts, wills, agreements or other instruments." N.J.S.A. 30:4D-2. See also L.M. v. Div. of Med. Assistance and Health Servs., 140 N.J. 480, 484 (1995) (quoting Atkins v. Rivera, 477 U.S. 154, 156, 106 S. Ct. 2456, 2458, 91 L. Ed. 2d 131, 137 (1986)) (Medicaid "'is designed to provide medical assistance to persons whose income and resources are insufficient to meet the costs of necessary care and services'"); Mistrick v. Div. of Med. Assistance and Health Servs., 154 N.J. 158, 165 (1998).

N.J.A.C. 10:71-2.2(c) addresses the County Welfare Agency's (CWA) responsibility in the Medicaid application process. It provides, in pertinent part, that the CWA exercises direct responsibility in the application process to:

1. Inform the applicants about the purpose and eligibility requirements for Medicaid Only, inform them of their rights and responsibilities under its provisions . . . ;

2. Receive applications;

3. Assist the applicants in exploring their eligibility for assistance;

According to N.J.A.C. 10:71-2.2, the worker must communicate with the applicant regarding any missing documentation. After that, the CSSA may use collateral contacts to verify, supplement, or clarify essential information. N.J.A.C. 10:71-2.10.

N.J.A.C. 10:71-2.2(e)(2), addresses a participant's responsibilities, it provides, in pertinent part, that an applicant shall assist the CWA in securing evidence that corroborates his or her statement.

In this case, the issue surrounds two accounts, neither of which was the petitioner's. Respondent, in their search using the Asset Verification Service (AVS), admitted that account ending in 1711, did not belong to the petitioner. Petitioner has not used the account ending in 9906 since his divorce. Requesting additional information here regarding these accounts would have verified that they did not belong to the petitioner.

Typically, the maximum time 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). The regulations governing Medicaid recognize that there may be times when an applicant is unable to produce the required information and allow extensions of time to process an application in certain circumstances. N.J.A.C. 10:71-2.3(c) provides:

> It is recognized that there will be exceptional cases where the proper processing of an application cannot be completed within the 45/90-day period. Where substantially reliable evidence of eligibility is still lacking at the end of the designated period, the application may be continued in pending status. In each such case, the CWA shall be prepared

> to demonstrate that the delay resulted from one of the following:
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> 1. Circumstances wholly within the applicant's control;
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> 2. A determination to afford the applicant, whose proof eligibility has been inconclusive, a further opportunity to develop additional evidence of eligibility before final action on his or her application;
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> 3. An administrative or other emergency that could not reasonably have been avoided; or
>
> 4. Circumstances wholly outside the control of both the applicant and the CWA.

Here, it took over nine months or 270 days for MCBSS to review the application. The respondent failed to notify the petitioner of the delay or reason for delay in processing the application. In M.L. v. Essex County Division of Family Assistance and Benefits, 2025 N.J. Super. Unpub. LEXIS 407 at *9 (App. Div. March 18, 2025), State agencies must "'turn square corners' with the public they serve in carrying out their statutory responsibilities. 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, like in M.L. the Agency failed to follow the regulations when evaluating the petitioner's Medicaid application; the "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 petitioner's representative sent several emails inquiring about the status. Once the agency responded to say the matter was still pending and the second time a request for information and the final response was denial.

Medicaid Communication 22-04 (which updates Medicaid Communication 10-09) also sets forth that if an applicant continues to cooperate in good faith the time limit may be extended.[2] Therefore, both Medicaid Communication 22-04 and the regulations

[2] To encourage timely and efficient processing, the Division of Medical Assistance and Health Services (DMAHS) along with the NJ FamilyCare Eligibility Determining Agencies (EDAs) promote the use of online

contemplate that a county welfare agency may permit applicants extensions of time to provide required information when it is aware that the applicant has attempted to provide the information but has been unable to do so due to exceptional circumstances. See H.P. v. Ocean Cnty. Bd. of Social Servs., OAL DKT. NO. HMA 01118-18, 2018 N.J. AGEN LEXIS 271, Initial Decision (May 11, 2018), where the lawyers who were conservators for an elderly man who applied for Medicaid benefits were acting in good faith to transmit all required documentation to a county social services Board and their conduct also reflected cooperation and proactive efforts to comply with the Board's request.

Here, the petitioner was acting in good faith. An application was made by the petitioner on April 15, 2024. Nine months or over 270 days later, the respondent sent an RFI dated January 15, 2025. The requested information was due January 29, 2025. Petitioner responded with some documents and requested an extension of time to obtain some other documents. Specifically, the petitioner's representative informed the respondent that they had requested the information from Chase Bank and was waiting for its response. An extension was granted. On February 5, 2025, Chase Bank

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applications through the website www.NJFamilyCare.org in accordance with 42 CFR 435.907. Applicants can become registered users as part of the NJ FamilyCare application process. Registered users will receive an NJ Helps account, which gives the ability to review NJ FamilyCare application status as well as submit attachments necessary for determining eligibility securely and conveniently. All applications, whether submitted online or data entered by a caseworker as an e-paper application, are received and processed by the Integrated Eligibility System (IES) known as the Worker Portal.

The case processing time limit of forty-five days, or ninety days for those who are applying on the basis of a disability, begins the day the Agency receives the application. The application/renewal notice shall be considered the initial request for information from the individual seeking medical assistance whether the individual is being evaluated initially or is being redetermined.

The Worker Portal will perform electronic verifications (i.e. social security number, citizenship, first name, last name, date of birth, death confirmation, immigration status, income, disability status, etc.) which will be displayed for the caseworker to review. If a verification results in a discrepancy, insufficient information or an error, a Request for Information (RFI) letter will be sent. The RFI letter will allow the applicant/beneficiary fourteen days to respond. If no response is received, the application will be denied for failure to provide information as per 42 CFR 435.952 (c)(2). An additional RFI letter may be sent if the applicant's response to the first RFI prompts the need for additional outreach.

It should be understood that exceptional circumstances may arise in determining eligibility. Therefore, if the applicant/beneficiary requests additional time to provide information and continues to cooperate in good faith with the Agency, a reasonable extension of the time limit may be permitted. These exceptional circumstances shall be documented in the Worker Portal.

If an applicant/beneficiary fails to provide the requested information, fails to respond to the EDA while under a good faith extension, or fails to respond to EDA outreach, a denial/termination letter with the applicable citation must be sent.

responded that they did receive the subpoena and based on the information, "they were unable to locate records responsive to the subpoena and/or request." (P-1 at 10.) The DAR notified the respondent on February 13, 2025. The respondent did not send another RFI stating that they needed additional information. On February 13, 2025, the respondent denied petitioner's application.

Multiple factors lead to the conclusion that a second RFI should have been sent, and additional time should have been granted to the petitioner in this matter. First, the petitioner's representative demonstrated the efforts she made to provide all the requested information. Second, petitioner subpoenaed the bank that she thought the account was located. Third, there was no one to ask as the petitioner's ex-wife, whom they believed the account belonged to, was deceased. Fourth, MCBSS should have sent a second RFI requesting more information and specifying Wells Fargo. It was only after the denial and the petitioner's representative continued investigating and speaking with respondent, it was realized that the bank account number ending in 1731 was with Wells Fargo and was in the petitioner's ex-wife's name.

Accordingly, **I CONCLUDE** that the good faith attempts by petitioner to submit the documentation coupled with the challenges to find where or whom the bank accounts belonged to constitute exceptional circumstances which would justify an extension of the time limit as set forth in Medicaid Communication No. 20-04. I also **CONCLUDE** an RFI should have been sent to the petitioner detailing outstanding documents. I further **CONCLUDE** that the MCBSS did not satisfy its regulatory obligations.

ORDER

Based on the above I **ORDER** the MCBSS to reopen the application and review the file and issue an RFI detailing the outstanding documents needed for verification and allow a reasonable time for the petitioner to submit responsive documents. At which time the Agency shall make a new eligibility determination for petitioner. It is further **ORDERED** that the decision by the respondent in denying the petitioner's application is **REVERSED**. Petitioner's appeal is **GRANTED**.

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.

August 26, 2025
DATE

JOAN M. BURKE, ALJ

Date Received at Agency: _____

Date Mailed to Parties: _____

JMB/jm

APPENDIX

Witnesses

For petitioner:

Rachel Jacobs, Designated Authorized Representative

For respondent:

Carrie Flanzbaum, Human Services Specialist 3

Exhibits

For petitioner:

P-1 Consisting of 57 pages

For respondent:

R-A Application
R-B Request for Information, January 15, 2025
R-C Eligibility Notification and Regulations