



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION
OAL DKT. NO. HMA 14068-25

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

T.R. _____

Petitioner,

v.

HUDSON COUNTY DEPARTMENT
OF FAMILY SERVICES _____

Respondent.

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

For respondent: Donald L. Gardner, Asst. County Counsel, for respondent (Alberico De Pierro, County Counsel)

BEFORE: R. TALI EPSTEIN, 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):

Respondent denied petitioner's February 28, 2024, Medicaid application because he failed to provide, within the allotted time, a complete copy of his in-laws' living trust to verify that his wife had no present access to its assets. Was the denial appropriate? No, where petitioner's designated authorized representative ("DAR") requested additional time to obtain the third-party document and continued to cooperate in good faith with respondent, respondent should have permitted the reasonable extension. N.J.A.C. 10:71-2.3 (c).

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

Please see attached page.

ADDITIONAL FINDINGS OF FACT/CONCLUSIONS OF LAW

On February 28, 2024, petitioner's DAR, Sossi Steif of Future Care Consultants, filed an ABD Medicaid application on petitioner's behalf. (Respondent's Exh. E.) Respondent assigned caseworker Agnieszka (Agnes) Dimatteo ("Dimatteo") to process the application. On March 28, 2024 and April 4, 2024, Dimatteo sent requests for additional information needed to process petitioner's application. (Petitioner's Exhs. 1-2.) The DAR provided responsive documentation. On June 7, 2024, Dimatteo issued a further request for information ("June RFI"). (Petitioner's Exh. 5; Respondent's Exh. B.) The June RFI requested the production of two additional documents: "1) Copy of a complete Rotondo Living Trust document [and] 2) Copy of Power of Attorney document granting POA to Catherine Ruggiero as referred to in the letter from Giovanni Rotondo dated 6/6/2024 regarding Rotondo Living Trust." (Ibid.) In her email attaching the June RFI, Dimatteo advised that the trust document was required to verify whether petitioner's spouse had access to the trust resources. (Petitioner's Exh. 3.)

The DAR supplied the requested POA. However, as she previously advised Dimatteo, the Rotondo Living Trust ("Living Trust") belonged to petitioner's in-laws, and neither petitioner nor his spouse had access to the document. The DAR attempted to secure the document from petitioner's in-laws but was unable to obtain their consent. The DAR did, however, obtain a copy of the face page of the Living Trust (from the bank), evidencing that petitioner's in-laws were the owners of the Living Trust. (Petitioner's Exh. 4; Respondent's Exh. C.) On June 21, 2024, the DAR also provided respondent with an email from Mr. Vira, the attorney who purportedly drafted the Living Trust. Mr. Vira represented that: "[Petitioner's spouse] is currently not entitled to receive any payments or benefits from her parents' (Giovanni and Isabella Rotondo's) living trust. In addition, her husband, [petitioner], is also not entitled to receive any payments or benefits from the trust under any circumstances whatsoever." (Petitioner's Exh. 3.)

On June 25, 2024, a representative from Future Care Consultants emailed Dimatteo regarding the status of petitioner's application and inquired whether "anything

else [is] still missing for approval." (Petitioner's Exh. 3.) Dimatteo responded on June 26, 2024, advising that she had already submitted the case to her supervisor for review as a denial. Petitioner's representative immediately requested an extension of time to implore petitioner's in-laws to release a copy of the Living Trust so that petitioner's application could be approved. Respondent denied the extension request. The following day, on June 27, 2024, respondent denied petitioner's Medicaid application.

Respondent admits that, except for the Living Trust document, the DAR provided all other requested information prior to the denial date. Several business days after the denial, and after further efforts by petitioner's representative, petitioner's in-laws agreed to authorize the release of a copy of their Living Trust to respondent. As previously represented by the DAR and confirmed by Mr. Vira, the document demonstrated that petitioner's spouse does not have present access to the trust resources.

Based on the foregoing facts, I **FIND** that, at all relevant times, petitioner (through his DAR) made good-faith efforts to comply with respondent's verification requests. The DAR supplied all but one of the many requested documents. Regarding the single document she was unable to obtain within the allotted time, the DAR testified credibly about her efforts to obtain that document and the steps she took to provide respondent with alternate information in lieu of the document that was not in petitioner's possession or control. Based on the DAR's testimony regarding her difficulty in obtaining a release from petitioner's in-laws for a complete copy of the Living Trust, the record clearly demonstrates—and I **CONCLUDE**—that exceptional circumstances existed to warrant the extension of time requested by petitioner. Specifically, N.J.A.C. 10:71-2.3(c) permits a reasonable extension of time to issue an eligibility determination when an applicant, or the DAR, requests additional time to provide information and continues to cooperate in good faith with the county welfare agency.

Here, petitioner demonstrated by a preponderance of the evidence that his DAR cooperated and communicated with Dimatteo throughout the process, consistently seeking respondent's guidance on how to proceed and making good-faith efforts to

provide sufficient information to process his application. Respondent did not produce Dimatteo to testify at the hearing. Respondent's sole witness, Ms. Jurgensen, conceded that she was not involved in the consideration of petitioner's Medicaid application and was unable to refute the DAR's testimony.

Accordingly, I **CONCLUDE** that, given the DAR's efforts to communicate and cooperate with the assigned caseworker, respondent did not afford petitioner a reasonable opportunity to comply with the June RFI verification request, which required the DAR to secure a release for the production of third-party information.

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.

October 20, 2025

DATE

Date Record Closed:

Date Filed with Agency:

Date Sent to Parties:


R. TALI EPSTEIN , ALJ
09/29/2025

October 20, 2025

October 20, 2025

APPENDIX

Witnesses

For Petitioner:

Sosie Steif, Designated Authorized Representative, Future Care Consultants

For Respondent:

Karina Jurgensen, Caseworker

Exhibits

For Petitioner:

- P-1 Request for Information, dated 3/28/24
- P-2 Request for Information, dated 4/12/24
- P-3 Emails between DAR and Caseworker Dimatteo
- P-4 Trust Cover Page
- P-5 Request for Information, dated 6/7/24
- P-6 Emails from Daniel Vira, Esq.

For Respondent:

- R-A Adverse Action Letter, dated 6/27/24
- R-B Request for Information Letter, dated 6/7/24
- R-C Trust Document Received-Trust Cover Page
- R-D Code of Federal Regulation Citation - Not Admitted
- R-E Copy of ABD Online Application, dated 2/28/24
- R-F Letter from Petitioner's father-in-law, dated 6/6/24
- R-G POA for PNC Bank
- R-H Check # 5518
- R-H1 Check # 5603
- R-I PNC - Trust account
- R-J Email correspondence between Caseworker Dimatteo and DAR