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FINAL AGENCY DECISION

OAL DKT. NO. HSL 02709-23

AGENCY DKT. NO. DRA 23-003

J.D.,

Petitioner,

v.

NEW JERSEY DEPARTMENT OF

HUMAN SERVICES,

Respondent

No Appearance by Petitioner, **J.D.**

Caroline Gargione, Deputy Attorney General, for Respondent Department of Human Services, Office of Program Integrity and Accountability (Jennifer Davenport, Attorney General of New Jersey, attorney)

Record Closed: February 25, 2026

Decided: March 2, 2026

BEFORE **CATHERINE A. TUOHY**, ALJ

STATEMENT OF THE INITIAL DECISION

Petitioner, J.D., appeals the Department's decision under N.J.S.A. 30:6D-73 et. seq. and N.J.A.C. 10-44D, concerning substantiated acts of neglect against an individual with developmental disabilities.

PROCEDURAL HISTORY

By letter dated February 10, 2023, the DHS's Office of Program Integrity and Accountability advised petitioner that an investigation had substantiated that she neglected M.M., an individual receiving services from the Division of Developmental Disabilities (DDD) and that her name would be placed on the Central Registry of Offenders against Individuals with Developmental Disabilities. On February 17, 2023, petitioner filed an appeal and the Department transmitted this matter to the Office of Administrative Law (OAL), where it was filed as a contested case on March 27, 2023, pursuant to N.J.S.A. 52:14B-1 to -15 and N.J.S.A. 52:14F-1 to -13.

A Consent Confidentiality Protective Order was entered July 25, 2023.

Petitioner was initially represented by Robert Boney, Esq. until a substitution of attorney was filed by Joseph P. Swift, Esq. on April 9, 2024. Numerous telephone status conferences were conducted in this case. On January 7, 2026 an order was entered relieving the Swift Law Firm as counsel for petitioner. The order provided that petitioner shall obtain new counsel within thirty days or continue in this matter pro se. A telephone status conference was scheduled for February 24, 2026, at 4:00 p.m. Petitioner was provided notice of same. No new notice of appearance was filed on behalf of petitioner and petitioner failed to appear for this telephone conference. No reason was provided for petitioner's failure to appear for the telephone conference.

INITIAL DECISION'S LEGAL DISCUSSION AND CONCLUSIONS OF LAW

Pursuant to N.J.A.C. 1:1-14.4(a) "If, after appropriate notice, neither a party nor a representative appears at any proceeding scheduled by the Clerk or judge, the judge shall hold the matter for one day before taking any action. If the judge does not receive an explanation for the nonappearance within one day, the judge shall, direct the Clerk to return the matter to the transmitting agency for appropriate disposition pursuant to N.J.A.C. 1:1-3.3(b) and (c).

This matter was scheduled for a telephone status conference on February 24, 2026, at 4:00 p.m. Petitioner was appropriately noticed for the telephone status conference. Petitioner failed to appear for the telephone conference and has not submitted any explanation as to her failure to appear.

As a result, the ALJ **CONCLUDED** that the Petitioner had abandoned her appeal and therefore directed the Clerk to return this matter to the transmitting agency.

INITIAL DECISION ORDER

The ALJ **ORDERED** that the Clerk return this matter to the Director of the Office of Program Integrity and Accountability for appropriate disposition pursuant to N.J.A.C. 1:1-3.3(b) and (c).

The ALJ further **FILED** the initial decision with the **DIRECTOR OF THE OFFICE OF PROGRAM INTEGRITY AND ACCOUNTABILITY** for consideration.

This recommended decision may be adopted, modified or rejected by the **DIRECTOR OF THE OFFICE OF PROGRAM INTEGRITY AND ACCOUNTABILITY**, who by law is authorized to make a final decision in this matter. If the Director of the Office of Program Integrity and Accountability 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.

EXCEPTIONS TO THE INITIAL DECISION

No Exceptions have been filed by either the Petitioner or Respondent and both parties except the Initial Decision in its' entirety.

LEGAL STANDARD OF REVIEW

Upon consideration of an Initial Decision, an agency head may accept, reject, or modify the recommended decision of the Administrative Law Judge (ALJ). N.J.S.A. 52:14F-7(a). The deciding agency is not required to accept an ALJ's findings of fact or credibility findings when they "are arbitrary, capricious or unreasonable or are not supported by sufficient, competent, and credible evidence in the record." N.J.S.A. 52:14B-10(c). Therefore, "the agency head may reject or modify findings of fact, conclusions of law or interpretations of agency policy in the decision, but shall state clearly the reasons for doing so." *Id.*

FINAL AGENCY DECISION

LEGAL ANALYSIS AND CONCLUSIONS OF FACT AND LAW

Pursuant to the Central Registry Act, N.J.S.A. 30:6D-73(b):

The safety of individuals with developmental disabilities receiving care from State-operated facilities or programs . . . licensed, contracted, or regulated by the [DHS] . . . or from State-funded community-based services shall be of paramount concern.

The Central Registry Act is intended “to assure that the lives of innocent individuals with developmental disabilities are immediately safeguarded from further injury and possible death and that the legal rights of such individuals are fully protected,” N.J.S.A. 30:6D- 73(c), by “prevent[ing] caregivers who become offenders against individuals with developmental disabilities from working with individuals with developmental disabilities.” N.J.S.A. 30:6D-73(d). An investigation is conducted upon allegations of abuse, neglect, or exploitation of developmentally disabled individuals, concluding with a written investigation report that includes conclusions and the rationale for those conclusions. N.J.S.A. 30:6D-76(e).

Under the Central Registry Act, neglect is defined as “willfully failing to provide proper and sufficient food, clothing, maintenance, medical care, or a clean and proper home; or failing to do or permit to be done any act necessary for the well-being of an individual with a developmental disability.” N.J.S.A. 30:6D-74. In order to be included on the Central Registry for a substantiated incident of neglect, “the caregiver shall have acted with gross negligence, recklessness or in a pattern of behavior that causes or potentially causes harm to an individual with a developmental disability.” N.J.S.A. 30:6D:77(b)(2). For a substantiated incident of neglect, gross negligence, recklessness, and a pattern of behavior are defined as follows:

1. Acting with gross negligence is a conscious, voluntary act or omission in reckless disregard of a duty and of the consequences to another party.
 2. Acting with recklessness is the creation of a substantial and unjustifiable risk of harm to others by a conscious disregard for that risk.
 3. A pattern of behavior is a repeated set of similar wrongful acts.
- [N.J.A.C. 10:44D-4.1(c).]

Respondent has shown that the totality of the evidentiary record proved by a preponderance of the credible evidence that J.D. committed prohibited acts of neglect against service recipient M.M. with the requisite mental state sufficient to meet the legal standard required for placement of J.D. on the Central Registry. Therefore, the original decision to place J.D. on the Central Registry on February 10, 2023 was proper and in full compliance with the statutory and

regulatory requirements necessary. Further to this point, a detailed review and summary of the evidentiary record is set forth below.

FACTUAL ANALYSIS SUPPORTING PLACEMENT

A thorough, comprehensive and objective Investigation was conducted by **Respondent's** Office of Investigations (OI). This Investigation determined that on 03/10/22, between the hours of 9:52 a.m., and 6:20 p.m., Petitioner J.D. interacted with service recipient M.M. minimally and left him alone in an unknown location for approximately **five hours** instead of providing educational and advocacy services to M.M. Petitioner J.D. also failed to support M.M. in choosing a community activity to participate in, failed to tend to M.M.'s hygiene needs and failed to ensure he stayed adequately hydrated.

In addition, J.D. failed to ensure that M.M. ate lunch. Further, on 03/10/22, J.D. fulfilled an Instacart order at ShopRite while she was scheduled to provide support services to M.M. Lastly, J.D. also did not maintain M.M.'s level of supervision in the community which is described as within arm's reach as noted in his ISP, dated 11/29/21, when completing the Instacart order at ShopRite, and when delivering the Instacart order to the customer's home.

Furthermore, J.D. prompted M.M., multiple times, on what to say to his mother regarding where they ate and what activities they participated in, and offered a reward for doing so, when there was no evidence found to support said activities. This Neglect fortunately did not result in an injury to M.M.

When interviewed by Sergeant Lynne Dougherty, Atlantic County Prosecutor's Office, and the OI Investigator, M.M. reported that he is in J.D.'s basement a lot. Per M.M., J.D.'s basement is, "dirty," with dirt on the floor. According to M.M., he sits on a white couch and reported that no one else is in the basement with him when he is down there. Additionally, when interviewed by Sergeant Dougherty and the OI Investigator, M.M. stated that J.D. "lies," about where they go. Per M.M., J.D. did not take him to the zoo, boardwalk or arcade. According to M.M., J.D. only takes him for rides to the gas station and nowhere else.

Per the Human Services Police (HSP) report, dated 08/02/22, on 08/02/22, a complaint summons was issued to J.D. with a charge of 2C: 24-8, abuse/neglect of a disabled adult.

Per the HSP complaint summons, dated 08/02/22, on 03/10/22, J.D. committed the crime of 2C:24-8A, abandon/neglect of elderly/disabled by caretaker, a crime of third degree.

Per the HSP report, dated 08/02/22, the audio recording provided by the mother of M.M., was reviewed by HSP. Per the HSP report, HSP's observations include the following:

The audio recording is eight hours and 28-minutes long, reflecting M.M.'s day with J.D. At 52-minutes into the audio, J.D. is heard at a Popeyes drive thru ordering two sandwiches, one for herself and one for Mr. Adrian Kent, J.D.'s friend. J.D. never asked M.M. if he wanted anything, and she does not get him anything.

After obtaining the sandwiches from Popeyes, J.D. drives to Mr. Kent's job and gives him the food. J.D. tells M.M., "not to worry" because she (J.D.), "has Chinese" for him because that is what he asked for. M.M. is not heard asking anything about Chinese food in the recording.

J.D. has minimal interaction with M.M. during the first hour they are together. At one hour and 26-minutes into the recording, J.D. and M.M. were heard exiting a vehicle and M.M. is greeted by a female voice asking how he is and if he is having a good day.

M.M. is heard responding that he is not having a good day, but then quickly states that he is having a good day. Two minutes later, M.M. is heard stating that he does not, "feel safe here" to himself, which is followed by, "getting Chili's, but not yet."

An hour and 31-minutes into the recording, M.M. appears to be by himself. There are voices in the background and an occasional dog bark is heard. M.M. is heard talking to himself; he asks himself if he is okay or if he has a headache.

At one hour and 46-minutes into the audio, there is a sound that appears to be like a knocking on a door, dog barking, a baby crying and M.M. telling himself that he is too good, "for these guys."

At three hours and 45-minutes into the audio, M.M. is by himself for approximately two hours and 20-minutes with no interaction with anyone. M.M. is heard talking to himself regarding various things. M.M. is heard stating, "I want to go home," and, "I am hungry" multiple times.

M.M. is heard talking to himself for an additional two hours with no interaction, but there are brief moments of sound of J.D. on the telephone and her walking on old wood stairs.

At six hours and 22-minutes into the audio recording and **five hours of no interaction**, J.D. asks M.M. if he is okay and if his pants are wet. M.M. responds that he is okay and states that his pants are not wet. During the time that passed, M.M. is not heard eating, drinking or using the bathroom at any time.

Approximately 15-minutes later, and six hours and 37-minutes into the recording, J.D. is heard saying, "come on to M.M." They leave and get into a vehicle and once in the vehicle, J.D. is heard on the telephone with Mr. Kent telling him that she has been in the house all day and that she is going to Instacart from ShopRite in Egg Harbor Township.

At six hours and 54-minutes into the audio, J.D. and M.M. are heard exiting her car and entering the ShopRite.

At seven hours and 44-minutes into the audio, M.M. enters the vehicle and J.D. is heard entering the vehicle three minutes later. A global positioning system (GPS) is heard narrating directions to 310 Elmwood Avenue in Egg Harbor Township. J.D. arrives at the destination at approximately seven hours and 52-minutes into the audio. J.D. exits the car for a minute, leaving M.M. in the car alone. J.D. gets back into the car and continues driving.

At eight hours and five minutes into the audio, J.D. tells M.M., "you better not lie to your mom this time, when she says what did you eat? What did you eat?" M.M. mumbles the word, "crisps" and J.D. responds, "No, today you ate McDonald's." J.D. asks M.M. again what he ate and M.M. responds with McDonald's. J.D. then says, "If you say that, tomorrow I'll take you to a restaurant." J.D. then has M.M. say McDonald's again. J.D. tells M.M. "Today we went to the arcade" and M.M. responds by saying, "arcade." Approximately 19-minutes later, J.D. reminds M.M. about McDonald's again as he exits the vehicle.

At eight hours and 25-minutes into the audio, M.M. is with his mom.

Based on the audio, M.M. is under the care of J.D. for approximately eight hours and 13-minutes and the only interaction M.M. had with J.D. was her telling him she has Chinese food for him that he never received, she asked him one time if he was okay while sitting alone for approximately five hours, and then told him what she wanted him to tell his mother, which was

that they ate at McDonald's and went to the arcade. There was never a moment throughout the audio that sounded as though M.M. could have been eating, drinking, using the bathroom or being in an arcade.

The evidentiary record just reviewed above provides a clear and compelling case that clearly supports the original decision to place J.D. on the Central Registry for substantiated acts of Neglect towards M.M. This Neglectful conduct by J.D. towards M.M. was without justification and created an unreasonable and substantial risk of harm to M.M.

FINAL AGENCY DECISION

Pursuant to N.J.A.C. 1:1-18.1(f) and based upon a review of the ALJ's Initial Decision, **THE DIRECTOR OF THE OFFICE OF PROGRAM INTEGRITY AND ACCOUNTABILITY CONCLUDES AND AFFIRMS** the following:

I AFFIRM, ADOPT AND ACCEPT the **Initial Decision** of the **ALJ** in its' entirety without modification and thereby **CONCLUDE** that the Petitioner has in fact and practice **ABANDONED** her Appeal.

I CONCLUDE AND AFFIRM that DHS has sustained its burden of proving by a preponderance of the credible evidence, that the actions of J.D. rose to the level of **Neglect** of M.M.as defined in N.J.A.C. 10:44D-2.1 (e) by failing to provide M.M. with the required supervision, care, food and services necessary to help prevent risk of injury.

I CONCLUDE AND AFFIRM that DHS has sustained its burden of proving, by a preponderance of the credible evidence, that J.D. acted with recklessness by creating a substantial and unjustifiable risk of harm to M.M. with a conscious disregard for that risk., as defined by N.J.A.C. 10:44D-4.1 (c), thereby justifying the placement of J.D.'s name on the Central Registry.

I CONCLUDE AND AFFIRM that J.D. shall remain on the Central Registry.

Therefore, pursuant to N.J.A.C. 1:1-18.6(d), it is the Final Decision of the Department of Human Services that **I ORDER** that J.D. shall remain on the Central Registry of Offenders against Individuals with Developmental Disabilities.

04/09/2026

Date

Deborah Robinson

Deborah Robinson, Director

Office of Program Integrity and Accountability