State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION
OAL DKT. NO. HMA 11260-25

Medicaid Only
Excess Resources Appeal
N.J.A.C. 10:71-4

W.P.

Petitioner,

v.

Mercer County Board of Social Services,

Respondent.

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

For respondent: Jenna Sheiman, Associate Attorney, for respondent, pursuant to N.J.A.C. 1:1- 5.4(a)(3)

BEFORE: Jacob S. Gertsman, ALJ

STATEMENT OF THE CASE

Respondent denied petitioner's Medicaid Only application due to excess resources under N.J.A.C. 10:71-4.5.

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 $2311.68 (N.J.A.C. 10:71-4.1, -4.2 for single individuals; N.J.A.C. 10:71-4.6 and -4.8 for married individuals)

(2) The applicable **resource eligibility standard** is $2000 (N.J.A.C. 10:71-4.5)

(3) Petitioner's **date of resource eligibility** is _____ (N.J.A.C. 10:71-4.5) (*fill in if resources under applicable standard*)

III.

☑ I **CONCLUDE** that petitioner is over the applicable resource limit and is therefore resource **INELIGIBLE** for Medicaid Only 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 Medicaid Only benefits as of _____ (*fill in date of eligibility*) under N.J.A.C. 10:71-4.5.

ADDITIONAL FINDINGS OF FACT/CONCLUSIONS OF LAW

Petitioner's application for NJ FamilyCare Aged, Blind and Disabled Programs Coverage was completed by the Designated Authorized Representative on March 29, 2025, and received by the Board on April 2, 2025. (R-1)

W.P.'s resources include $1544.62 in a Direct Express account (R-3), a cash card, and $767.06 in a Bank of America account (R-4) for a total of $2311.68. (R-2)

The Board properly counted the $1544.62 in the Direct Express account as a resource since the petitioner had access to the account through his daughter, who served as his power of attorney. Petitioner's argument that the Direct Express account should not be counted as a resource because he was incapacitated and his account card was lost is without merit. Direct Express first informed petitioner's representative that they needed to provide a valid ID on November 9, 2024. A valid ID, a picture of W.P.'s driver's license, was finally provided to Direct Express on March 27, 2025. (P-4) Put simply, the failure of W.P.'s representative to provide a valid ID for 138 days did not result in a lack of access to the account for that time period.

Petitioner's application was denied because his resources exceeded the resource eligibility standard on June 11, 2025. (R-5)

APPENDIX

Witnesses

For Petitioner:

Elisheva Wyler, Designated Authorized Representative

For Respondent:

Arvalon Callender, Human Service Specialist 3, Mercer County Board of Social Services

ORDER

I ORDER that:

☐ Petitioner's appeal is **DISMISSED** because petitioner has **NO STANDING**.

☑ Petitioner is resource **INELIGIBLE** for Medicaid Only benefits under N.J.A.C. 10:71-4.5.

☐ Petitioner is resource **ELIGIBLE** for Medicaid Only benefits as of _____ 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.

April 27, 2026
DATE

Jacob S. Gertsman ,ALJ

Date Record Closed: 04/23/2026

Date Filed with Agency: _____

Date Sent to Parties: _____

Exhibits

For Petitioner:

P-1 (Entered as R-5)

P-2 Request for Information, dated April 22, 2025

P-3 Emails

P-4 Call Log (Amended exhibit submitted and admitted on April 23, 2026)

P-5 through P-8 NOT ADMITTED

P-9 I.L. v. New Jersey Department of Human Services, Division of Medical Assistance & Health Services

For Respondent:

R-1 NJ FAMILYCARE Nursing Home Aged Application

R-2 Aged, Blind, Disabled N.H. & Waiver Program Worksheet

R-3 Direct Express Statement

R-4 Bank of America Statement

R-5 Adverse Action Notice/Denial Notice

R-6 and R-7 NOT ADMITTED