



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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SHEILA Y. OLIVER
Lt. Governor

CAROLE JOHNSON
Acting Commissioner

MEGHAN DAVEY
Director

STATE OF NEW JERSEY
DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE
AND HEALTH SERVICES

R.R.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE

AND HEALTH SERVICES AND

MIDDLESEX COUNTY BOARD OF

SOCIAL SERVICES,

RESPONDENTS.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

MOTION TO REOPEN

OAL DKT. NO. HMA 3302-2016

As Director of the Division of Medical Assistance and Health Services, I have reviewed the record in this case, including the OAL case file and the documents filed below.

Previously, on June 2, 2017, the law firm of SB2, Inc. advised they had been retained by R.R.'s authorized representative, Shlomo Cohen, and wrote to reopen a case previously docketed at HMA 3302-2016 on March 3, 2016. That fair hearing had been requested after R.R. had been found eligible for Medicaid as of December 1, 2015. Mr. Cohen sought to change that effective date. The record shows that four hearing dates were scheduled; each one was adjourned until Mr. Cohen withdrew the

fair hearing request on September 27, 2016. R.R. is not currently receiving Medicaid benefits.

Counsel was advised by letter dated August 11, 2017, that N.J.A.C. 1:1-19.2(c) states that reopening a withdrawn case must be done by motion, which was not done here. On January 8, 2018, counsel submitted documents styled as a motion including a certification from counsel and a half-page brief. For the reasons that follow, that motion to reopen is denied.

While N.J.A.C. 1:1-19.2(c) provides a party an opportunity to move to reopen a withdrawn case before the transmitting agency head, there is no timeframe within which such a request must be made. The analogous court rule is Rule 4:37-1(a), governing voluntary dismissals without prejudice. Under this rule, a party seeking reinstatement of a voluntarily dismissed complaint must show good cause.

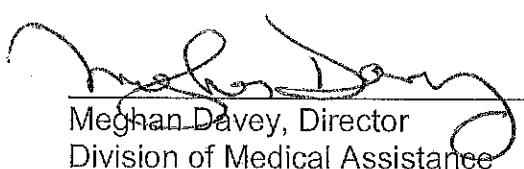
None of the documents submitted contain any good cause basis for reinstatement. Indeed, the motion brief contains legal citations that mention good cause. However, the very brief brief fails to set forth any justification to reopen.

Mr. Cohen advertises as having "the expertise it takes and the knowledge of the application process that is required to present your application in the best possible light." See <http://www.elderguide.net/why-use-elderguide/> . However, Mr. Cohen provided absolutely no explanation why his withdrawal, which was presumably based on this expertise, should be disregarded.

THEREFORE, it is on this ^{16th} day of FEBRUARY 2018,

ORDERED:

That the MOTION to REOPEN is DENIED.


Meghan Davey, Director
Division of Medical Assistance
and Health Services