



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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Governor

SHEILA Y. OLIVER
Lt. Governor

CAROLE JOHNSON
Commissioner

JENNIFER LANGER JACOBS
Assistant Commissioner

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

D.B.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE

AND HEALTH SERVICES AND

MONMOUTH COUNTY BOARD OF

SOCIAL SERVICES,

RESPONDENTS.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 9264-2019

As Assistant Commissioner for the Division of Medical Assistance and Health Services, I have reviewed the record in this case, including the Initial Decision, the OAL case file and the documents filed below. Neither party filed exceptions in this matter. Procedurally, the time period for the Agency Head to render a Final Agency Decision is December 27, 2019 in accordance with an Order of Extension.

The matter arises regarding Petitioner's December 2018 application for Medicaid benefits. Petitioner had died eleven days prior. He had been residing in an assisted living

facility since June 2018. Monmouth County dismissed the case on February 15, 2019 due to Petitioner's death before an application was filed and the invalidity of the Designation of Authorized Representative (DAR) executed in favor of Senior Planning Services (SPS) presented with the application.¹

The Initial Decision found that Petitioner's DAR as well as the authority that his Power of Attorney had executed the DAR, expired on his death. The application was properly dismissed as there was no valid signature. Since no estate set up until March 2019 at which point a new DAR was signed, it was only at that time that an application could be filed. For the reasons that follow, I hereby REVERSE the Initial Decision and RETURN the matter to Monmouth County to determine if retroactive eligibility can be established.

I do agree with the ALJ's conclusions that the authority afforded the estate administrator did not extend to hearings. However, the rules regarding retroactive eligibility should have permitted the application to be processed to completion. Whether the DAR or the estate had the authority to file an appeal if the application was denied would have been dealt with at that point.

Under the federal regulations, retroactive eligibility can exist if the applicant would have been eligible for Medicaid at the time he had received the Medicaid service regardless of whether he is alive at the time of the application. See 42 C.F.R. § 435.915. I understand the Initial Decision's and the County's concern that no valid DAR was in effect at the time of application. However, that was eventually cured with the appointment of the administrator for Petitioner's estate. Moreover, the assisted living facility filed for retroactive benefits in January 2019. ID at 2. This puts the request in accordance with N.J.A.C. 10:71-2.16 (a) which discusses the process for retroactive benefits and would permit eligibility to be reviewed for October, November and December.

¹ The DAR provided with the application was signed in June 2018 when Petitioner was still alive. The record does not contain any explanation why an application wasn't filed until December 2018.

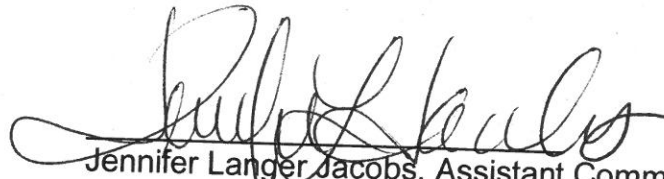
The rules have to be read to permit a deceased individual to be considered for retroactive benefits. To that end, the defect of the December application was cured by the January request by the facility for retroactive coverage. Thus, I hereby RETURN the matter to Monmouth County for completion of the request for retroactive benefits filed in January 2019.

THEREFORE, it is on this ^{24th} day of DECEMBER 2019,

ORDERED:

That the Initial Decision is hereby REVERSED; and

That the matter is RETURNED to Monmouth County to finalize the retroactive benefits determination.



Jennifer Langer Jacobs, Assistant Commissioner
Division of Medical Assistance
and Health Services