



**State of New Jersey**  
OFFICE OF ADMINISTRATIVE LAW

**INITIAL DECISION**

OAL DKT. NO. HMA 13345-2023

K.C.,  
\_\_\_\_\_  
\_\_\_\_\_

Petitioner,

v.

Camden County Board  
\_\_\_\_\_ of Social Services  
\_\_\_\_\_

Respondent.

***Medicaid Only***

***Failure to Verify Eligibility Appeal***

***N.J.A.C. 10:71-2.2 and -2.3***

**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):

Verification of deposits and check withdrawals from bank statements.

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**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 standing has been established.
- I **FIND** that petitioner or petitioner's representative is **NOT AUTHORIZED** to pursue this appeal; therefore, I **CONCLUDE** that standing has not been established.

II.

- I **FIND** that petitioner did not timely provide all the required 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 should be **DENIED** under N.J.A.C. 10:71-2.2(e).
- I **FIND** that petitioner did not timely provide all the required 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); therefore, I **CONCLUDE** that the time limit for verification should be **EXTENDED** under N.J.A.C. 10:71-2.3(c).
- I **FIND** that petitioner did not timely provide all the required 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); and petitioner has since provided all the required documentation; therefore, I **CONCLUDE** that the Medicaid Only application should be **PROCESSED** to determine eligibility under N.J.A.C. 10:71.
- I **FIND** that petitioner timely provided all the required documentation under N.J.A.C. 10:71-2.2(e) and -2.3(a); therefore, I **CONCLUDE** that the Medicaid Only application should be **PROCESSED** to determine eligibility under N.J.A.C. 10:71.

**ADDITIONAL FINDINGS OF FACT/CONCLUSIONS OF LAW**

The DAR applied for Medicaid on behalf of the petitioner on May 9, 2023, and sent three timely email requests for status updates on the application. On July 27, 2023, the CCBS responded and sent a pending letter requesting multiple bank statements and LTC-2 admission form by August 10, 2023. The DAR submitted the bank statements on August 8, 2023. The DAR requested an update on August 14 and August 15, 2023. CCBS responded on August 28, 2023, saying the case had not yet been processed because the CCBS was understaffed. The CCBS issued a denial letter dated November 8, 2023. The CCBS failed to provide prompt notice of ineligibility as required by N.J.A.C. 10:71-2.3(c)3. (Continued on additional sheets attached.)

**ORDER**

I **ORDER** that:

- Petitioner's appeal is **DISMISSED** because petitioner has no standing.
- Petitioner is **INELIGIBLE** for Medicaid Only 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.

05/10/2024  
\_\_\_\_\_  
DATE

*Kim C. Belin*  
\_\_\_\_\_  
Kim C. Belin, ALJ

Date Record Closed: 05/09/2024  
\_\_\_\_\_

Date Filed with Agency: 5/10/2024  
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Date Sent to Parties: 5/10/2024  
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**APPENDIX**

**Witnesses**

**For Petitioner:**

Shana Zucker

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**For Respondent:**

Botonya Harris

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**Exhibits**

**For Petitioner:**

- P-1 Email dated June 13, 2023
- P-2 Email dated June 22, 2023
- P-3 Email dated July 11, 2023
- P-4 Email dated July 27, 2023
- P-5 Letter from Berlin Rehabilitation and Healthcare Center dated August 8, 2023
- P-6 Email dated August 14, 2023
- P-7 DAR log
- P-8 Email dated August 28, 2023
- P-9 Medicaid Communication No. 10-09 dated November 24, 2010
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**For Respondent:**

- R-1 Medicaid application dated May 9, 2023
- R-2 DAR form dated April 28, 2023
- R-3 Confirmation of uploaded documents
- R-4 ABD Checklist
- R-5 Request for Information letter dated July 27, 2023
- R-6 Fax cover sheet and letter from Berlin Rehabilitation and Healthcare Center dated August 8, 2023
- R-7 Denial letter dated November 8, 2023
- R-8 Medicaid Communication No. 22-04 dated May 3, 2022
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Additional Findings of Fact/Conclusions of Law (continued)

Processing Delay

N.J.A.C. 10:71-2.3(a) mandates that the maximum time for the respondent to process a Medicaid application is forty-five days for the aged and ninety days for the blind. Thus, the denial letter was due on August 7, 2023 (for ninety days).

Exceptions to this time frame are permitted which allows the application to remain in pending status but the county welfare agency (CWA) must be prepared to show that the delay resulted from “. . . (3) an administrative or other emergency that could not reasonably have been avoided or (4) [c]ircumstances wholly outside the control of both the applicant and the CWA.” N.J.A.C. 10:71-2.3(c)(3) and (4). In this matter, the CCBSS supervisor testified that there was insufficient staffing to timely process the petitioner's application. N.J.A.C. 10:71-2.3(e) mandates that the county director must establish operational controls to assure expedited processing of applications and compliance with processing standards. That did not happen in this case. I **CONCLUDE** that the lack of staff was an exceptional circumstance requiring that the petitioner's application be in pending status.

When processing the application is delayed beyond the forty-five or ninety-day period, “written notification shall be sent to the applicant on or before the expiration of such period, setting forth the specific reasons for the delay.” N.J.A.C. 10:71-2.3(d). Here, the respondent failed to provide notice of delay to the DAR. Accordingly, I **CONCLUDE** that the respondent woefully failed to meet its obligations under the pertinent regulation. Specifically, the CCBSS failed to move this case promptly through the approval process but allowed the case to lay dormant for three months. Had the respondent adhered to the regulatory timelines, a decision determining income and resource

eligibility could have been made as soon as August 7, 2023, and if deemed ineligible, the DAR could have reapplied earlier than November.

In M.A. v. MCBSS, OAL Dkt. No. HMA 07879-19, 2019 N.J. AGEN LEXIS 558 (Initial Decision August 27, 2019, Final Decision September 20, 2019), the respondent was delayed in processing M.A.'s Medicaid application due to a change in staffing. This delay resulted in a loss of Medicaid benefits for ninety days for M.A. The Administrative Law Judge determined that the Agency's internal error in the reassignment of the file "should not prejudice the petitioner from a retroactive ninety-day eligibility from the application date . . ." (Id. at \*6.) Applying this rationale to the present case warrants a similar conclusion. Specifically, the respondent's delay in processing the petitioner's application because of insufficient personnel should not prejudice the petitioner from a retroactive eligibility from the application date of May 9, 2023, in this case. (Id. at \*6.)

Moreover, the DAR made repeated attempts to obtain updates on the status of the petitioner's application and the case worker reassured the DAR that he would notify the DAR if additional information was needed. (P-4.) The case worker did not do so. The record reflects that there was no communication from the respondent from July 28, 2023, until November 7, 2023. Therefore, I **CONCLUDE** the CCBSS's administrative error resulted in harm to the petitioner preventing the DAR from reapplying sooner if deemed ineligible and precluding the petitioner from three months of Medicaid coverage from the application date.

Taking all of the above into consideration including the filing of the Medicaid application, petitioner's numerous efforts to find out the status of the case, the respondent's failure to process the case in a timely manner and to communicate with the petitioner the basis for the delay, as required; and petitioner's subsequent timely submission of all relevant documents, I **CONCLUDE** that the CCBSS's determination to deny the petitioner's May 9, 2023, Medicaid application is **REVERSED** and **REMANDED** to determine eligibility retroactively from May 9, 2023.