



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

DISMISSAL

OAL DKT. NO. HMA 07888-24

M.M.,

Petitioner,

v.

UNION COUNTY BOARD OF

SOCIAL SERVICES.,

Respondent.

Carol Chambers-Madden, Designated Authorized Representative, for petitioner,
appearing pursuant to N.J.A.C. 1:10B-5.1

Sharonda Donaldson-Liggon, Fair Hearing Liaison, for respondent, appearing
pursuant to N.J.A.C. 1:1-5.4(a)(3)

Record Closed: August 30, 2024

Decided: September 3, 2024

BEFORE **R. TALI EPSTEIN**, ALJ:

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

In this matter, petitioner M.M. appeals the determination of the Union County Board of Social Services (UCBSS) to deny M.M.'s application for MLTSS Medicaid benefits for failing to provide requested verifications. The Division of Medical Assistance and Health

Services transmitted this case to the Office of Administrative Law (OAL), where it was filed on June 12, 2024, as a contested case under N.J.S.A. 52:14B-1 to -15; N.J.S.A. 52:14F-1 to -13. The OAL scheduled a telephonic hearing for August 30, 2024.

FACTUAL DISCUSSION AND FINDINGS

During a prehearing discussion, before the record opened, the ALJ inquired as to Ms. Chambers-Madden's standing to pursue the appeal on petitioner's behalf. Ms. Chambers-Madden asserted that she had power of attorney and was petitioner's designated authorized representative (DAR) when she signed the December 31, 2023, Medicaid application on his behalf. Ms. Chambers-Madden further confirmed that petitioner, her brother-in-law, died on February 8, 2024, more than two months before his Medicaid application was denied, on April 15, 2024, for failure to provide verifications. Ms. Chambers-Madden acknowledged she filed this appeal following M.M.'s death and that, to date, M.M.'s estate has not been probated. Accordingly, I **FIND** that there is no fiduciary appointed to act for the decedent, nor was any fiduciary assigned when Ms. Chambers-Madden requested a fair hearing to appeal the denial of M.M.'s application for Medicaid benefits.

LEGAL DISCUSSION AND CONCLUSIONS OF LAW

Pursuant to N.J.S.A. 46:2B-8.5, the death of the principal, who executed a power of attorney, terminates the agency and revokes the power of attorney for anyone with actual knowledge of the principal's death. After the death of the principal, it is the fiduciary appointed by a will or ordered by the Court, under the laws of intestacy, who has the authority to act for the decedent. N.J.S.A. 3B:14-23.

The power of attorney may have authorized Ms. Chambers-Madden to act as M.M.'s DAR when the application for Medicaid benefits was filed; however, the authority of the power of attorney to conduct M.M.'s affairs, including appealing the denial of his Medicaid application, terminated upon his death. A power of attorney is an "instrument in writing whereby one person, as principal, appoints another as his [or her] agent and confers authority to perform certain specified acts or kinds of acts on behalf of principal."

D.D.B. Interior Contr., Inc. v. Trends Urban Renewal Ass'n, 176 N.J. 164, 168, 821 A.2d 1135 (2003) (citing Black's Law Dictionary 1171 (6th ed. 1990)). A power of attorney expires upon the principal's death. So, too, does a DAR appointment made through a power of attorney.

Petitioner died more than two months prior to the denial of his Medicaid application. At the time, Ms. Chambers-Madden requested a fair hearing to appeal the denial of M.M.'s application, and as of the date of the fair hearing, petitioner's estate had not been probated, and there was no fiduciary appointed to act for the decedent. Accordingly, I **CONCLUDE** that Ms. Chambers-Madden is not authorized to pursue this appeal, standing has not been established, and this matter should be **DISMISSED WITHOUT PREJUDICE**.

ORDER

Based on the foregoing, it is **ORDERED** that this matter is **DISMISSED WITHOUT PREJUDICE** for lack of standing.

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.

September 3, 2024

DATE



R. TALI EPSTEIN, ALJ

Date Received at Agency:

September 3, 2024

Date Mailed to Parties:

September 3, 2024