



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

**INITIAL DECISION**

OAL DKT. NO. HMA 11763-24

AGENCY DKT. NO. N/A

**A.R.,**

Petitioner,

v.

**MONMOUTH COUNTY DIVISION**

**OF SOCIAL SERVICES,**

Respondent.

---

**C.R.,** appearing for petitioner, pursuant to N.J.A.C 1:10B-5.1

**Kenneth Mantila,** Fair Hearing Liaison, appearing for respondent pursuant to  
N.J.A.C. 1:1-5.4(a)(3)

Record Closed: January 31, 2025

Decided: February 11, 2025

BEFORE **MARY ANN BOGAN, ALJ:**

**STATEMENT OF THE CASE**

Petitioner, A.R., by her power of attorney and son, C.R. appeals the decision of respondent, Monmouth County Division of Social Services (MCDSS or agency), denying eligibility for Managed Long-Term Services and Supports (MLTSS) Medicaid benefits based on her alleged failure to provide corroboratory evidence in a timely manner

necessary to determine eligibility, and for being over-resourced. N.J.A.C. 10:71-2.2(e)(2); N.J.A.C. 10:71-4.1, 4.5, 4.5(c).

On appeal, the petitioner contends (1) MCDSS was provided with all the requested information to make an eligibility determination; (2) the inheritance check deposited in error into her bank account should not have been counted as a resource in the eligibility determination. For the reasons cited below, the petitioner complied with the request for information pursuant to N.J.A.C. 10:71-2.2(e). However, the petitioner is not eligible for Medicaid benefits due to excess resources under N.J.A.C. 10:71-4.5.

### **PROCEDURAL HISTORY**

The matter was transmitted to the Office of Administrative Law (OAL) and filed on August 27, 2024, for determination as a contested case. N.J.S.A. 52:14B-1 to -15. The case was adjourned in advance of October 11, 2024 and November 18, 2024 scheduled hearings, due to the unavailability of the MCDSS representatives and with the consent of petitioner. The case was heard telephonically on December 20, 2024. By letter dated January 10, 2025, the record was reopened for receipt of further clarification as to documents and additional documents that were received on January 31, 2025. After the receipt of the documents and receipt of petitioner's response, the record closed on January 31, 2025.

### **STATEMENT OF FACTS**

After listening to testimony and reviewing the documentary evidence I **FIND** the following as **FACT**:

On December 31, 2023, A.R., by her representative, C.R. filed a Medicaid application with MCDSS on A.R.'s behalf.<sup>1</sup> (R-1.) A.R. has been living in an assisted living facility since 2016 and previously received Medicaid benefits after spending down her savings. Based upon the agency's eligibility determination of December 31, 2023,

---

<sup>1</sup> Petitioner's MLTSS coverage was terminated effective September 30, 2023 for being over-resourced.

Medicaid application, petitioner was found ineligible for Medicaid by letter dated July 5, 2024. For being over the \$2,000 resource limit and for failure to provide all the requested verifications.

On June 17, 2024, nearly six months after the Medicaid application was filed, MCDSS sent A.R. a request for information (RFI) requesting Ocean First bank account #8062 statement from August 1, 2023 to June 1, 2024; and Ocean First account #6394 statement from December 1, 2023 to June 1, 2024. The RFI also requested an explanation of any transaction over \$1,000, and "for any transaction that went into your bank account with the funding resource [that] does not belong to you, you MUST provide the credible evidence (i.e., a bank statement or a bank letter or any other equivalent official document) to verify the owner of that account/fund source." The request also sought verification of the owner of account #1557 and statements from December 2023 to June 2024 if the account belongs to A.R., along with verification of the 2024 pension with the gross and net. The information was due July 1, 2024. The record also includes the following transactions: receipt of monthly social security totaling \$1883, pension deposit totaling \$567.22, and petitioner's monthly payment to the assisted living facility totaling \$1390.81. (R-2.)

In a timely response, C.R. hand delivered a packet of information on behalf of the petitioner to the agency. The records provided to MCDSS by C.R. included copies of all the bank statements requested, including the bank statement reflecting the inadvertent deposit into joint Ocean First account #8062, and the subsequent bank statements verifying the withdrawals of the inadvertent deposit into C.R.'s individual bank account. (R-3; P-1)

On July 5, 2024, the agency notified the petitioner that her application was denied for failure to provide requested information required to determine eligibility in a timely manner and for being over the \$2,000 program resource limit. In its denial letter the agency stated, if the petitioner "choose[s] to reapply in the future, . . . the documents needed for your re-application is the image that was deposited on August 10, 2023, in the OF #8062 account, bank statements from June 25, 2024 through current, and the 2024 pension verification". (R-4.)

## Testimony

With respect to the petitioner's resource eligibility, at the fair hearing, the petitioner's representative, C.R. argued that petitioner is resource eligible, and the denial of her application was improper because (1) C.R. inherited a total of \$77,249.74 as set forth in the Last Will and Testament of his aunt, M.A.H. produced in evidence, and was not available to the petitioner. (P-1.) The money was mistakenly deposited into the joint account OF#8062, based on "the advice of counsel." The agency did not dispute the mis-deposit and made a recommendation to the petitioner to withdraw the money that was deposited from the inheritance from the joint account.

Accordingly, I further **FIND** the deposit totaling \$77,249.74 was inadvertently deposited into petitioner's account on August 10, 2023, and subsequently withdrawn.

Furthermore, C.R. asserts specifically, that the agency's "resource snapshot" in his view miscounted petitioner's available resources. Rather, C.R. believes that once the check to the assisted living facility is paid, and after the petitioner's social security check totaling \$1,883 and the pension check totaling \$567.22 is deposited into the account, the account balance satisfies the resource eligibility of \$2,000. C.R. did acknowledge that the resource limit is not necessarily satisfied on the first day of the month.

The record also reflects that the petitioner repeatedly contacted the agency through her representative C.R. upon filing December 31, 2023, application. The record and C.R.'s testimony demonstrates, C.R. communicated with the agency on a consistent basis through telephone calls, emails, and facsimile, asking the agency repeatedly for the status of the application, its approval, and inquired as to whether additional information was necessary. C.R. also demonstrated that the agency's delay caused an extreme burden for his mother, especially since the petitioner has been a resident of the assisted living for more than eight years, and after spending down her resources, had been qualified and receiving Medicaid benefits. The agency did not dispute these communications made by the petitioner.

## **LEGAL ANALYSIS AND CONCLUSIONS**

To qualify for Medicaid in New Jersey, an applicant must provide a county welfare agency (CWA) with documentation verifying her financial eligibility and such verifications must show that the applicant is financially eligible for the program.

First, under N.J.A.C. 10:71-2.2, a Medicaid applicant must provide sufficient information for the CWA to determine her financial eligibility. In this regard, an applicant must “[a]ssist the CWA in securing evidence that corroborates his or her statements” on the application and “[r]eport promptly any change affecting his or her circumstances.” N.J.A.C. 10:71-2.2(e).

A CWA also has responsibilities during the application process, including “[a]ssist the applicants in exploring their eligibility for assistance” and “[m]ake known to the applicants the appropriate resources and services both within the agency and the community, and, if necessary, assist in their use.” N.J.A.C. 10:71-2.2(c).

Generally, CWA must process an application for MLTSS in forty-five days. N.J.A.C. 10:71-2.3. When the complete processing of an application is delayed beyond forty-five days for the aged or ninety days for the blind or disabled, written notification shall be sent to the application on or before the expiration of such period, setting forth the specific reasons for the delay. N.J.A.C. 10:71-2.3. But “[w]here substantially reliable evidence of eligibility is still lacking at the end of the designated period; the application may be continued in pending status” in “exceptional cases.” N.J.A.C. 10:71-2.3(c).

Such exceptional circumstances include the CWA’s “determination to afford the applicant, whose proof of eligibility has been inconclusive, a further opportunity to develop additional evidence of eligibility before final action on his or her application” and “[c]ircumstances wholly outside the control of both the applicant and CWA.” Ibid.

Once the CWA has sufficient information regarding an applicant’s resources, the CWA must determine whether the applicant is resource eligible. To be eligible, an individual’s resources may not exceed \$2,000 in value. N.J.A.C. 10:71-4.5(c). An

applicant's "[r]esource eligibility is determined as of the first moment of the first day of each month." N.J.A.C. 10:71-4.1(e). A "resource" is "defined as any real or personal property which is owned by the applicant . . . and which could be converted to cash to be used for his or her support and maintenance." N.J.A.C. 10:71-4.1(b). Moreover, "[b]oth liquid and nonliquid resources shall be considered in the determination of eligibility, unless such resources are specifically excluded under the provisions of N.J.A.C. 10:71-4.4(b)." Ibid.

A resource must also be "available" for purposes of an eligibility determination. N.J.A.C. 10:71-4.1(c). A resource is available if "[t]he person has the right, authority or power to liquidate real or personal property or his or her share of it[.]" Ibid. When evaluating an applicant's available resources, "[t]he CWA shall verify the equity value of resources through appropriate and credible sources." N.J.A.C. 10:71-4.1(d).

Under N.J.A.C. 10:71-4.4(b)(6), excludable resources include:

The value of resources which are not accessible to an individual through no fault of his or her own.

- i. Such resources include, but are not limited to, irrevocable trust funds, property in probate, and real property which cannot be sold because of the refusal of a co-owner to liquidate.
- ii. Inaccessible resources shall be reevaluated (regarding their accessibility) at every redetermination.

[N.J.A.C. 10:71-4.4(b)(6).]

A.R. complied with N.J.A.C. 10:71-2.2(e) by "[a]ssist[ing] the CWA in securing evidence that corroborates her statements" about the mis-deposited inheritance. As requested, A.R. provided MCDSS with a copy of the bank statement setting forth this deposit and the subsequent bank statements through December 31, 2023 to June 2024 to demonstrate that once notified by the agency, the full amount of the inheritance was transferred out of the joint account into the son's account.



The record reflects that the petitioner satisfied the agency's requests for information when her representative hand delivered the requested documents. The agency's only response with respect to what it considered to be missing documents is a list of documents included in its denial letter that included a first-time request for the inheritance check image, and bank statements that postdated the denial letter. The agency could not dispute that it did not receive the information requested in its original request for information and that the bank statements provided are consistent with the agency's request to "provide the credible evidence i.e. Bank statement . . . to verify the owner of that account/fund source for any transaction that went into your bank account that does not belong to you." As such, the petitioner complied with N.J.A.C. 10:71-2.2(e).

Moreover, the petitioner representative's conduct was entirely cooperative and proactive in his efforts to comply with the agency's requests while on the contrary, the agency's six-month delay to assign and process the Medicaid application has caused prejudice to the petitioner's potential to be reestablished for Medicaid benefits. And if further verifications were necessary as the agency infers, those efforts itself by C.R. constituted "exceptional circumstances" within the meaning of Medicaid Communication 10-09, necessitating a second RFI. See also H.P. v. Ocean Cnty. Bd. of Social Servs., OAL DKT. NO. HMA 01118-18, 2018 N.J. AGEN LEXIS 271, Initial Decision (May 11, 2018). The denial of A.R.'s application on this basis alone was inappropriate.<sup>2</sup>

In order to be Medicaid eligible, petitioners had to also have resources that met the resource standard as of the first day of the month. If prior to the first moment of the first day of the month, the applicant or beneficiary had drawn a check (or equivalent instrument) on a checking or similar account, the amount of such check shall reduce the value of the account. N.J.A.C. 10:71-4.5 (a) (2).

Moreover, "[w]hen a savings or checking account is held by the eligible individual with other parties, all funds in the account are resources to the individual, so long as he or she has unrestricted access to the funds (that is, an 'or' account), regardless of their source." N.J.A.C. 10:71-4.1(d)2.

<sup>2</sup> Petitioner's Medicaid application filed on October 28, 2024 has not been reviewed or processed.

The petitioner provided MCDSS with sufficient evidence to demonstrate that the money from C.R.'s inheritance was unavailable to her at the time of her application.

Under these facts, the inadvertent check deposit is not an available resource because the petitioner could not convert the money into cash to use for her support and the money has been transferred out of the account, the resource is unavailable because petitioner lacks the "the right, authority or power to liquidate [the] property or his or her share of it[.]" N.J.A.C. 10:71-4.1 (c) (1).

However, the agency correctly and C.R. acknowledged that the petitioner exceeded the resource limit from December 2023 to June 2024, because payments to the assisted living, which are drafted after the first of the month, did not post until the middle of the month, contributing to the joint account being over the resource limit from December 2023 to June 2024. Furthermore, there are varying transactions including deposits and payments throughout that seven-month period that caused the account to be over the resource limit on the first day of the month, and even after the assisted living payment reduced the account total.

Accordingly, I **FIND** that petitioner timely provided all the required documentation under N.J.A.C.10:71-2.2(e) and -2.3(a).

I further **FIND** that the total amount of the inheritance, \$77,249.74, is an unavailable resource that does not render the petitioner ineligible for Medicaid due to resources under N.J.A.C. 10:71-4.5.

I **CONCLUDE** that the 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.

### **ORDER**

I **ORDER** petitioner is resource **INELIGIBLE** for Medicaid benefits under N.J.A.C.10:71-4.5 and the Medicaid application is **DENIED**.

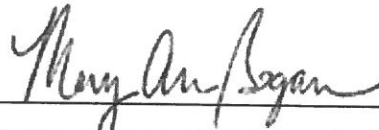


I **FILE** this initial decision with the **ASSISTANT COMMISSIONER OF THE DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES**. This recommended decision is deemed adopted as the final agency decision under 42 U.S.C. § 1396a(e)(14)(A) and N.J.S.A. 52:14B-10(f). The **ASSISTANT COMMISSIONER OF THE DIVISION 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.

February 11, 2025

DATE



MARY ANN BOGAN, ALJ

Date Received at Agency:

February 11, 2025

Date Mailed to Parties:

February 11, 2025

MAB/nn

**APPENDIX**

**WITNESSES**

**For petitioner**

C.R.

**For respondent**

Sariya Brown, Human Services Specialist 2

Minday Bernstein, Human Services Specialist 3

**EXHIBITS**

**For petitioner**

P-1 Petitioner's packet

**For respondent**

R-1 Application

R-2 RFI letter sent

R-3 Ocean First #8062 bank statement for December 1, 2023 through June 1, 2024

R-4 Denial/Termination letter, outstanding document list, over resource list

R-5 N.J.A.C. 10:17-2.2(e); N.J.A.C. 10:71-4.5(c)