



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

FINAL DECISION

OAL DKT. NO. HMA 13533-24

A.S.,

Petitioner,

v.

**ESSEX COUNTY BOARD
OF SOCIAL SERVICES,**
Respondent.

Eliyahu Pecker, Esq. for petitioner **A.S.**, pursuant to N.J.A.C. 1:10B-5.1

Kathleen Gilbert-Paul appearing for respondent Essex County Board of Social Services, pursuant to N.J.A.C. 1:1-5.4(a)(3)

Record Closed: April 2, 2025

Decided: June 23, 2025

BEFORE ANDREW M. BARON, ALJ:

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

Petitioner appeals the denial of Medicaid/New Jersey Family Care due to failure to provide requested documentation and verification in a timely manner.

Petitioner and his family were deemed ineligible to receive Medicaid and with assistance he filed the within appeal. The matter was transferred and filed as a contested case with the Office of Administrative Law under N.J.S.A. 52:14B-2(b). The matter was

originally scheduled for March 3, 2025, when no one appeared for the county, nor had the county sent out its evidence package. The matter was then scheduled for April 2, 2025, with the notice directing the county to send its package to the attorney representing petitioner.

At the beginning of the hearing, Mr. Pecker on behalf of the petitioner, advised he had still not received the packet, which Ms. Gilbert-Hall indicated they did not have his email address, which was easily accessible simply by contacting my assistant after the last adjournment. Petitioner had sent its information to the county previously.

DISCUSSION

Petitioner seeks coverage under New Jersey Family Care. After seeking detailed income and asset information which the county says it did not receive, on April 30, 2024, petitioner's application was denied.

Normal protocols which are followed once an appeal is filed is to send a copy of the documents respondent intends to rely upon to petitioner or their representative.

In this case, with at least two opportunities, that was not done, denying petitioner their right to due process and have an understanding of on what basis to challenge the county's decision, in this case the alleged failure to produce documents.

After the matter had already been rescheduled, and the county had still not sent out its documents, after the hearing started the county asked whether it could still send the documents, and if so, to where. Respondent was informed the appeal would be granted on procedural due process grounds, since petitioner's representative was not provided with the documents, and to send them at the beginning of the hearing leaving no time to prepare would be unfair and prejudicial to petitioner's representative.

LEGAL ANALYSIS AND DISCUSSION

On the basis of the facts set forth above, I **CONCLUDE** that the Division incorrectly denied petitioner's application.

ORDER

Based upon the foregoing, I **HEREBY ORDER** that the decision of the agency to deny petitioner's Medicaid application is and the same is hereby **REVERSED**.

I hereby **FILE** my initial decision with the **DIRECTOR OF THE DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES**.

This decision is deemed adopted as the final agency decision under 42 USC Sect. 1396 a (14)(A) and N.J.S.A. 52:14 B et. al.

The **ASSISTANT COMMISSIONER 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 Justice Complex, P.O. Box 006, Trenton, N.J. 08625. A request for judicial review must be made within 45 days from the date you receive this decision. If you have any questions, they may be addressed by calling the Appellate Division at: 609-815-2950.

June 23, 2025

DATE


ANDREW M. BARON, ALJ

Date Received at Agency:

June 23, 2025

Mailed to Parties:

June 23, 2025

lr

In this matter, the only dispute is whether the Division correctly determined that petitioner was not eligible for benefits during effective due to incompleteness of paperwork. Such a determination is governed by N.J.A.C. 10:71-2.2, responsibilities in the application process, and N.J.A.C. 10:71-2.3, policy and procedures on prompt disposition. Both provisions address situations where applicants refuse to comply with Division requests for information.

Here, however, there is no way to tell if there was a refusal or failure to cooperate, since the documents the county would have relied on at the hearing were not shared prior to the beginning of the hearing with petitioner's representative. Thus, while perhaps an unintentional oversight, with no one from the county appearing on the first day, and an in between written directive from me that was disregarded, I am left with no alternative but to **grant** the appeal on procedural due process grounds.

Accordingly, **I CONCLUDE** the determination of the county denying benefits must be **REVERSED** on procedural due process grounds for failure to provide the hearing documents to petitioner's representative in advance of the second scheduled hearing date.

The agency is charged with requiring the applicant to complete forms and secure evidence that corroborates the statements of an applicant and report any changes that impact an applicant's financial situation. N.J.A.C. 10:71-2.2 et. seq. In each application, five years of financial history is required to be supplied and reviewed. N.J.A.C. 10:71-4.10.

Within these regulatory parameters, there is precedent within a dialogue between the worker assigned and petitioner's family, to allow for more time to produce the documents requested within a reasonable period. See: S.H. v. Essex Cty Bd. of Social Services, OAL DKT. No. HMA 16991-14, 2015 N.J. AGEN. LEXIS 188, Initial Decision (March 6, 2015) wherein petitioner's condition was such that he could not assist the home or the agency in collecting and supplying documents, but a substantial effort had been made and see: M.D. v. DMAHS and Atlantic Cty. Bd. of Social Services, OAL DKT. No. HMA 14997-14, 2015 N.J. AGEN. LEXIS. 210, Initial Decision (February 10, 2015).

APPENDIX

LIST OF WITNESSES

For Petitioner:

None

For Respondent:

Kathleen Gilbert-Paul

LIST OF EXHIBITS IN EVIDENCE

For Petitioner:

P-1 to P-60 (not considered decision based on procedural due process grounds)

For Respondent:

None- (Decision issued on procedural due process grounds.)