



PHILIP D. MURPHY  
Governor

TAHESHA L. WAY  
Lt. Governor

**State of New Jersey**  
**DEPARTMENT OF HUMAN SERVICES**  
Division of Medical Assistance and Health Services  
P.O. Box 712  
Trenton, NJ 08625-0712

SARAH ADELMAN  
Commissioner

GREGORY WOODS  
Assistant Commissioner

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

I.L.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE

AND HEALTH SERVICES AND

MIDDLESEX COUNTY

BOARD OF SOCIAL SERVICES,

RESPONDENTS.

ADMINISTRATIVE ACTION

ORDER OF REMAND

OAL DKT. NO. HMA 13553-24

As Assistant Commissioner for the Division of Medical Assistance and Health Services (DMAHS), I have reviewed the record in this case, including the Initial Decision and the Office of Administrative Law (OAL) case file. Petitioner filed exceptions in this matter. Procedurally, the time period for the Agency Head to render a Final Agency Decision is March 3, 2025. <sup>1</sup>

<sup>1</sup> The Initial Decision states that recommended decision of the Office of Administrative Law, should be deemed adopted as the Final Agency Decision, pursuant to 42 U.S.C. §

This matter arises from September 10, 2024, denial of Petitioner's Medicaid application due to the failure to provide information that was necessary to determine eligibility. On September 15, 2024, Petitioner's Designated Authorized Representative (DAR) submitted a request for Fair Hearing to appeal the denial. (R-1). On January 15, 2025, Petitioner's counsel represented Petitioner in a Fair Hearing before the OAL. Following the Fair Hearing, the Initial Decision issued on January 15, 2025, affirmed the denial finding that Petitioner failed to provide the requested verifications in a timely manner. In their exceptions, Petitioner's counsel advises that after hearing Petitioner's DAR learned that Petitioner had passed away on January 10, 2025, five days before the OAL hearing.

Upon Petitioner's death, the authorization granted to Petitioner's DAR ceased. L.M. v. Division of Med. Assistance & Health Servs., Dkt. No. A-6014-17T1, 2020 N.J. Super. Unpub. LEXIS 791 (App. Div. April 30, 2020) and M.F. v. Div. of Med. Assistance & Health Servs., No. A-2254-17T2, 2019 N.J. Super. Unpub. LEXIS 733 (Super. Ct. App. Div. Apr. 1, 2019). See also E.D. v. DMAHS, HMA 05284-18, Final Decision, (September 4, 2018) and G.C. v. DMAHS, HMA 03582-19, Order on Remand, (October 24, 2019). There is no authority to permit a DAR to continue after death. The appointment of a DAR is meant to be voluntary and revocable. 42 C.F.R. § 435.923; E.B. v. Division of Med. Assistance & Health Servs., 431 N.J. Super. 183 (App. Div. 2013). Upon the death of the applicant, a key boundary placed upon such an appointment vanishes – the legal authority underlying the appointment changes, and the individual can no longer revoke

---

1396(e)(14)(A), N.J.S.A. 52:14B-10(f), and N.J.A.C. 1:1-18.9, upon its filing with the Division of Medical Assistance and Health Services on January 15, 2025. However, the Initial Decision was rendered under a procedural deficiency, unknown to the OAL at the time of issuing the Initial Decision.

the appointment. 42 C.F.R. § 435.923(c) (providing that "[t]he power to act as an authorized representative is valid until . . . there is a change in the legal authority upon which the individual or organization's authority was based.").

The DAR designation is analogous to a limited Power of Attorney (POA) for the purposes of pursuing a Medicaid application or appeal. The attorney-in-fact is no longer permitted to act on the principal's behalf once he receives notification of the principal's death. See N.J.S.A. 46:2B-8.5. Additionally, the designation form that Petitioner signed provides that it is revocable at any time, similar to the revocability of a POA. See N.J.S.A. 46:2B-8.10. This federally-mandated revocability provision is rendered meaningless if the designation survives the applicant's death.

In the present matter, the record does not show that an estate was opened or that an administrator was authorized to act on behalf of the estate at the fair hearing following Petitioner's death on January 10, 2025. Specifically, the DAR designation ended upon Petitioner's death, and counsel's authority to act as attorney in this matter also extinguished at that time. Accordingly, I REMAND the matter for further development of the record and findings regarding whether either of the aforementioned parties has standing to pursue the present appeal. Specially, documentation should be provided showing whether an estate has been opened upon Petitioner's passing and if so, who has been appointed as the administrator of Petitioner's estate.

THEREFORE, it is on this 28<sup>th</sup> day of FEBRUARY 2025,

ORDERED:

That the Initial Decision is hereby REVERSED and REMANDED, as set forth herein.

*Gregory Woods*

---

Gregory Woods, Assistant Commissioner  
Division of Medical Assistance and Health Services