



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. HMA 05502-2025

AGENCY REF. NO. N/A

J.M.,

Petitioner,

v.

MIDDLESEX COUNTY BOARD

OF SOCIAL SERVICES,

Respondent.

Linda Ershow-Levenberg, Esq., for petitioner (Fink Rosner Ershow-Levenberg
Marinero, LLC, attorneys)

Kurt Eichenlaub, Human Services Specialist 3, for respondent, pursuant to
N.J.A.C. 1:1-5.4(a)(3)

Record Closed: June 10, 2025

Decided: June 27, 2025

BEFORE **SUSAN MCCABE, ALJ:**

STATEMENT OF THE CASE

Respondent Middlesex County Board of Social Services denied petitioner J.M.'s April 15, 2024, Medicaid application because J.M. "failed to provide" a requested eligibility verification. Should J.M.'s Medicaid application have been denied? No. J.M. provided timely verifications – including the verification in question – to establish eligibility. N.J.A.C. 10:71-2.2(e), N.J.A.C. 10:71-3.1(b).

PROCEDURAL HISTORY

J.M. filed his application for Medicaid benefits on April 15, 2024. (J-1). J.M. was assisted throughout the process by the law firm of Fink Rosner Ershow-Levenberg Marinaro, LLC, by and through its employee, Irene Quesada, Medicaid Applications Legal Assistant, for the firm.

Accompanying J.M.'s April 15, 2024, Medicaid application was a bevy of documentation regarding J.M. on his behalf, which included a settlement statement of the sale of J.M.'s home in Newark, NJ, a banking statement demonstrating the disposition of the verification in question, and a deed for J.M.'s purchase of a home in Edison, NJ. (P-1, P-2, P-7, P-7B).

After the initial application for Medicaid was filed, Ms. Quesada sent multiple emails to respondent asking for the status of same and offering additional verifications if needed. (P-8 – P-13). Respondent's response was generic in nature, advising that they were working as "quickly and efficiently as possible" and asking that J.M. be "patient . . .". (P-10, P-12).

The first request(s) for information from respondent to J.M. was dispatched/received on January 10, 2025. There were numerous requests contained therein, including "verification of all deposits and withdrawals from 4/1/2019 to 1/31/2024" for a particular bank account of J.M.'s.

On January 13, 2025, Ms. Quesada sent an email to respondent asking why all transactions were being sought when "everything for large deposits and withdrawals for [the last] 5 years" had already been provided. (P-15). Ms. Quesada additionally noted that "the house in Newark was sold and proceeds were deposited to [the bank account] . . . this was on the statement and uploaded to the portal." Ms. Quesada also asked for specificity as to which transactions were in question as she believed the respondent's requests for information sent on January 10, 2025, were too broad and/or generalized.

A follow-up email was sent by Ms. Quesada to respondent on January 14, 2025, stating: "in addition to what I already sent you earlier I am attaching a copy of the Bargain and sale deed for the new home in Edison . . . [t]his was purchased with part of the proceeds from the Newark house sale." (P-16).

Also on January 14, 2025, Ms. Quesada sent a separate email to respondent providing the real estate contracts for the sale of J.M.'s home in Newark, NJ, and the subsequent purchase of J.M.'s home in Edison, NJ. (P-17).

Respondent dispatched an email to Ms. Quesada on January 15, 2025, giving "examples" of deposits that would require verification. The proceeds from J.M.'s sale of his Newark, NJ home was not listed as an example. (P-18).

On that same day, January 15, 2025, Ms. Quesada emailed respondent, specifically asking if respondent "review[ed] the closing statement for the house sale in Newark" and if "what [Ms. Quesada] sent you yesterday is sufficient so [she] is not doing double the work. Most case workers give [her] specific transactions and dates..." Ms. Quesada's final query in her January 15, 2025, email was to remind respondent that she "asked for an extension [for verification production] and have not received confirmation of that. Please let [Ms. Quesada] know the new due date." (P-19).

J.M.'s application for Medicaid was denied on February 10, 2025, for "fail[ure] to provide requested information required to determine eligibility in a timely manner."¹ (J-3).

J.M. filed a timely request for a fair hearing, which was conducted telephonically on June 3, 2025. Written summations were submitted by the parties on June 10, 2025, and the record closed on that date.

¹ Respondent's final determination was over nine months from J.M.'s initial filing of April 15, 2024, and over eight months from J.M.'s filing to respondent's first request for additional information, well outside the scope of the forty-five day decision time limit mandate proscribed in 42 CFR Sec. 435.911.

FINDINGS OF FACT

Based on the testimony the parties provided, and my assessment of its credibility, together with the documents the parties submitted, and my assessment of their sufficiency, I **FIND** the following as **FACT**:

1. J.M. filed his Medicaid application on April 15, 2024. (J-1).
2. Respondent issued their request(s) for information on January 10, 2025. (J-2).
3. Respondent issued their denial of Medicaid benefits on February 10, 2025, citing J.M.'s "fail[ure] to provide requested information required to determine eligibility in a timely manner." (J-3).
4. J.M. filed a timely request for a fair hearing. (J-3).
5. Counsel for J.M. and respondent conferred via electronic mail on March 7, 2025. Counsel sought specificity as to the basis for respondent's denial of Medicaid benefits, and respondent advised that the HUD statement for the Edison property was the specific document missing that was needed to verify a particular deposit reflected in J.M.'s banking history. (J-4).
6. Counsel for J.M. and respondent subsequently conferred via electronic mail over several days in May 2025. (J-4). On May 21, 2025, respondent stated to counsel: "[l]ooking over the emails and the RFI [request for information] it looks like the agency needed verification of a \$70k² deposit back on 12/24/19 into [a particular bank account of J.M.'s]. Was the HUD-1 specifically requested? No." On May 23, 2025, respondent and counsel for

² The actual amount of the deposit in question was \$70,888.96. (P-2).

J.M. agreed that the sole issue – the reason for the denial – was the “alleged failure to provide verification of the \$70,000.00 deposit.” (Id.).

7. As early in the process as the date of the filing of the application for Medicaid, J.M., through counsel and Ms. Quesada, provided direct verification(s) of the \$70,888.96 deposit. (P-7B).
8. And on January 13, 14, and 15, 2025, Ms. Quesada sent additional, direct verifications of the deposit’s origins. (P-15 – P19).
9. At no time during the period between the request(s) for information to the denial did any representative of respondent ask for the HUD. (J-4).

CREDIBILITY

It is the obligation of the fact finder to weigh the credibility of the witnesses, and consider the witness’ interest in the outcome, motive, or bias. Credibility is the value that a fact finder gives to a witness’ testimony. Credibility is best described as that quality of testimony or evidence that makes it worthy of belief. “Testimony to be believed must not only proceed from the mouth of a credible witness but must be credible in itself. It must be such as the common experience and observations of mankind can approve as probable in the circumstances.” In re Estate of Perrone, 5 N.J. 514, 522 (1950).

In this instant case, the only testimony presented by either party was that of Irene Quesada, a witness for J.M., who was fully versed with regard to the events surrounding J.M.’s application for Medicaid, the verifications requested, the responses provided, and the ultimate outcome of the application. Her testimony was concise and supported by a plethora of documentary evidence provided on J.M.’s behalf – documentation that included emails that she herself authored and received. As such, I find both her testimony and the supporting documentary evidence to be credible.

CONCLUSIONS OF LAW

The Medicaid program is a cooperative Federal-State venture established as Title XIX of the Social Security Act. 42 U.S.C. § 1396 et seq. It "is designed to provide medical assistance to persons whose income and resources are insufficient to meet the costs of necessary care and services." L.M. v. Div. of Med. Assistance & Health Servs., 140 N.J. 480, 484 (1995) (citations omitted). Medicaid is intended to be a funding of last resort for those in need. N.J.S.A. 30:4D-2. New Jersey's Medicaid program derives its authority from the New Jersey Medical Assistance and Health Services Act, N.J.S.A. 30:4D-1 to -19.5, and the regulations promulgated thereunder, N.J.A.C. 10:49 et seq. In New Jersey, the Medicaid program is administered by DMAHS. Regulations implementing the State's various Medicaid programs are found at Title 10 of the New Jersey Administrative Code. The Medicaid Only program is administered pursuant to N.J.A.C. 10:71-1 et seq.

Both the county social services agency (CSSA) and the applicant have responsibilities with regard to the application process. N.J.A.C. 10:71-2.2. A Medicaid applicant shall complete the required application forms, assist the CSSA in securing evidence that corroborates the statements contained in the application, and promptly report any changes affecting the applicant's circumstances. N.J.A.C. 10:71-2.2(e). The CSSA exercises direct responsibility in the application process to inform applicants about the process, eligibility requirements, and their right to a fair hearing; receive applications; assist applicants in exploring their eligibility; make known the appropriate resources and services; assure the prompt accurate submission of data; and promptly notify applicants of eligibility or ineligibility. N.J.A.C. 10:71-2.2(c), (d).

The CSSA must determine eligibility for Medicaid applicants within forty-five days and blind and disabled cases within ninety days. N.J.A.C. 10:71-2.3(a); Medicaid Communication No. 10-09; 42 C.F.R. § 435.912 (2024). The timeframe may be extended when documented "exceptional cases" arise preventing the processing of the application within the prescribed time limits. N.J.A.C. 10:71-2.3(c). The regulations do not require that the CSSA grant an extension beyond the designated time period when the delay is due to circumstances outside the control of both the applicant and the CSSA. At best, an

extension is permissible. N.J.A.C. 10:71-2.3; S.D. v. DMAHS & Bergen Cnty. Bd. of Soc. Servs., No. A-5911-10 (App. Div. February 22, 2013).

When the request(s) for information finally came to J.M., some eight and a half months after the initial Medicaid application submission, the requests were nebulous and generalized. The deposit in question was never definitively identified by respondent in their requests. Nevertheless, J.M. provided numerous verifications regarding the deposit within the immediate few days following the request(s) for information. J.M. further asked, on multiple occasions in the days that followed the requests, if the verifications regarding the deposit were received and acceptable. J.M. was unable to get confirmation regarding the deposit verifications provided, so he took the additional step of asking for an extension of time. As far as the record shows, that request was never responded to, either in the negative or the positive, by respondent.

A review of the verifications sent to respondent by J.M. on April 15, 2024, and on January 13, 14, and 15, 2025, clearly show the source of the deposit and the history of the sale of the Newark, NJ property, the purchase of the Edison, NJ property, and the transmittal of funds from the sale to the purchase, with the residual \$70,888.96 being deposited into J.M.'s bank account. The verifications were authentic in nature, and included contracts for sale, settlement statements, and copies of deposit slips and their sources. There was, nor is, any apparent need for the HUD, and because it was not specifically requested – as candidly admitted by respondent – no apparent need for J.M. to obtain and forward same.

In late February 2025, J.M. located the HUD in question and filed a second Medicaid application which was subsequently granted. Pursuant to that second application filing date, retroactivity could only date back to November 1, 2024, which has resulted in unpaid nursing home costs beginning on February 1, 2024, and extending through October 31, 2024. (Testimony of Ms. Quesada).

As a result of the aforementioned, J.M. seeks the following: to have the denial of the April 15, 2024, Medicaid application reversed; to have the HUD submitted on February 26, 2025, be applied to the original application/verifications; and to have the retroactive

Medicaid coverage be recalculated based upon the April 15, 2024, application date so that the appropriate start date can begin on February 1, 2024.

I therefore **CONCLUDE** that timely verifications were provided to respondent by J.M., and that respondent erred in initially denying J.M. Medicaid coverage. I further **CONCLUDE** that respondent was untimely in their processing of J.M.'s Medicaid application and that respondent's delay and improper denial of J.M.'s initial Medicaid application resulted in a lack of retroactive Medicaid coverage that J.M. would have otherwise been entitled to. Based upon these conclusions, the retroactive Medicaid coverage start date shall be February 1, 2024.

ORDER

For the reasons described above, it is hereby **ORDERED** that J.M. provided adequate and timely verifications and that the retroactive start date of Medicaid coverage shall be February 1, 2024.

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.

June 27, 2025

DATE



SUSAN MCCABE, ALJ

Date Received at Agency: |

Date Mailed to Parties:

APPENDIX

Witnesses

For petitioner J.M.

Irene Quesada, Medicaid Applications Legal Assistant for
Fink Rosner Ershow-Levenberg Marinaro LLC

For respondent

None

Exhibits

Joint

- J-1 April 15, 2024, Medicaid Application
- J-2 January 10, 2025, Medicaid Request for Information
- J-3 February 10, 2025, Medicaid Denial
- J-4 Email communications between respondent and counsel for J.M.

For petitioner J.M.

- P-1 HUD-1 statement by ATS Title for sale of 30 Barbara Street, Newark, NJ
- P-2 Bank statement
- P-3 Property sale deposit check
- P-4 Legal fee check for property sale
- P-5 Deposit check for property purchase
- P-6 Verification of cancellation of homeowners insurance for 30 Barbara Street, Newark, NJ
- P-7 Property purchase deed for 73 Silver Lake, Edison
- P-7A Chase mortgage payoff confirmation
- P-7B J.M. counsel transmittal letter sent with Medicaid application
- P-8 June 21, 2024, email from Quesada to respondent
- P-9 June 24, 2024, email from respondent to Quesada
- P-10 June 24, 2024, email from Quesada to respondent

- P-11 July 15, 2024, email from Quesada to respondent
- P-12 August 13, 2024, email from Quesada to respondent
- P-13 September 23, 2024, emails between Quesada and nursing home
- P-14 February 13, 2025, email from respondent to Quesada
- P-15 January 13, 2025, email from Quesada to respondent
- P-16 January 14, 2025, email from Quesada to respondent
- P-17 January 14, 2025, email from Quesada to respondent
- P-18 January 15, 2025, email from respondent to Quesada
- P-19 January 15, 2025, email from Quesada to respondent
- P-20 January 14, 2025, email by Quesada to respondent resubmitting copy of deed for purchase of Edison property
- P-21 January 14, 2025, email by Quesada to respondent submitting proof of new homeowner insurance coverage for Edison property
- P-22 January 14, 2025, email by Quesada to respondent submitting contract of purchase of Edison property
- P-23 January 25, 2025, email by POA to counsel for J.M.
- P-24 February 25, 2025, email from real estate attorney to counsel for J.M.
- P-25 February 26, 2025, submittal of HUD for Edison property to respondent

For respondent

- R-A April 15, 2024, Medicaid application
- R-B February 10, 2025, denial of Medicaid benefits and citations by respondent to J.M.
- R-C January 10, 2025, request(s) for information by respondent to J.M.
- R-D Bank Statements