



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. HMA 17020-24

AGENCY DKT. NO. N/A

K.P.,

Petitioner,

v.

MIDDLESEX COUNTY BOARD

OF SOCIAL SERVICES,

Respondent.

Heshy Goldberg, for petitioner (Paramount Care Center), under N.J.A.C.1:10B-5.1

Kaila Reilly, Human Services Specialist 3, for respondent, under N.J.A.C. 1:1-5.4(a)(3)

Record Closed: March 24, 2025

Decided: April 8, 2025

BEFORE **JUDITH LIEBERMAN**, ALJ:

STATEMENT OF THE CASE

Petitioner K.P. appeals the determination by respondent, the Middlesex County Board of Social Services (Board), that she was ineligible for New Jersey FamilyCare

Aged, Blind, Disabled Medicaid (Medicaid) because she failed to produce information that the Board requested.

PROCEDURAL HISTORY

Petitioner was notified of the Board's determination on October 15, 2024, and petitioner filed a timely appeal. The Division of Medical Assistance and Health Services (DMAHS) transmitted this matter to the Office of Administrative Law (OAL), where it was filed on December 5, 2024, as a contested case. N.J.S.A. 52:14B-1 to -15; N.J.S.A. 52:14F-1 to -13. A telephonic hearing was scheduled to be conducted on January 31, 2025; however, petitioner requested an adjournment. The hearing was rescheduled and conducted on March 24, 2025, and the record closed that day.

FACTUAL DISCUSSION AND FINDINGS

The following is undisputed. I, therefore, **FIND as FACT:**

Petitioner applied for Medicaid on December 25, 2023. R-A. On August 1, 2024, the Board requested multiple documents from her,¹ including statements for a Bank of America account ending in 2828, from May 2023 through August 2023. It also requested documentation of "[a]ll deposits, [w]ithdrawals, and [t]ransfer transactions from these accounts[.]" R-C at 3. It explained that the required information about deposits was check images, deposit slips for cash deposits, and a written explanation detailing source of funds. For any Zelle deposits, petitioner was required to provide a "written explanation stating why money was given." *Ibid.* The Board also advised petitioner that if money was transferred to or from another person's account, she was to "provide a bank statement showing the owner of that account along with a statement stating why money was transferred. Zelle transfers require explanation and verification of why money was transferred." *Ibid.* All of these documents were to be submitted to the Board by August 15, 2024.

¹ This and subsequent requests were addressed to a representative of the nursing facility where petitioner resided. For ease of reference, I will refer solely to petitioner.

The Board issued another request for documents on September 25, 2024. It requested the same information as above but did not request documentation of transfers to or from petitioner's account. Id. at 9. Petitioner was to respond by October 9, 2024.

Petitioner produced Bank of America statements for the requested time period, as well as other requested documents.² R-D. On October 9, 2024, petitioner's representative forwarded to the Board a letter from petitioner's son-in-law, R.P.,³ in which he explained that petitioner previously lived with another daughter, S.P., and her son-in-law P.P. P.P. was the only member of the family who earned an income, and thus "was the one who used to manage all their personal and [petitioner's] financial affairs. As such, [petitioner] isn't aware of all the details of the financial transactions." R-E at 1. As P.P. died in August 2023,⁴ the family was unable to obtain information about petitioner's transactions. R.P. also wrote that he asked S.P. to attempt to gather more information about the transactions.

According to R.P., petitioner has no consistent source of income other than Social Security. She now has dementia and cannot explain her finances. P.R.P., petitioner's daughter and R.P.'s wife, explained that she and her husband did not have a relationship with her sister S.P. and brother-in-law P.P. This was due to S.P. and P.P. refusing to return money that they took from petitioner and her husband, who died in 2009. While petitioner lived with S.P., P.R.P. and R.P. were not involved with petitioner's finances and they did not know about any financial transactions S.P. and P.P. arranged using petitioner's account. After P.P. died in August 2023, petitioner moved to P.R.P. and K.P.'s house. At that time, P.R.P. and K.P. opened a new bank account in P.R.P.'s and petitioner's names. The only deposits to the new account were from Social Security. The Board confirmed this.

The Board denied her application because she "failed to provide requested information required to determine eligibility in a timely manner." R-B. The Board

² The date she provided the documents is not in the record.

³ R.P. is married to petitioner's daughter P.R.P.

⁴ R.P. also provided a copy of P.P.'s death certificate. R-E at 2.

explained during the hearing that petitioner did not provide documentation concerning deposits made to her account from a PayPal account. The Board required information about the owner of the PayPal account and its balance. However, the Board did not specifically request information about PayPal deposits in its requests for information or after petitioner submitted the Bank of America statements. The Board relied upon the August 1, and September 24, 2024, general request for information about "deposits." The Board noted that petitioner did not request assistance in gathering responsive information.

Additional Findings

It is the obligation of the fact finder to weigh the credibility of the witnesses before making a decision. A trier of fact may reject testimony because it is inherently incredible, or because it is inconsistent with other testimony or with common experience, or because it is overborne by other testimony. Congleton v. Pura-Tex Stone Corp., 53 N.J. Super. 282, 287 (App. Div. 1958). R.P. and P.R.P. offered consistent explanations about why petitioner was unable to provide information about all financial transactions and that Social Security is petitioner's only consistent source of income. The Board confirmed that there were no deposits from PayPal to petitioner's new bank account and that the only deposits were from Social Security. For these reasons, I find their testimony to be reliable.

Accordingly, I **FIND** as **FACT** that petitioner and her remaining family members were unable to procure and provide information about all Bank of America transactions when the Board denied petitioner's application. On October 9, 2024, the deadline set by the Board for submission of this information, R.P. advised the Board, through his letter to Goldberg, that he was so far unable to access all of petitioner's financial data and that he asked S.P. to try to obtain additional information. I also **FIND** as **FACT** that while the Board requested documentation of deposits made to petitioner's account, the request was unclear. It enumerated the information that petitioner was to provide about deposits, including a request specific to Zelle deposits, but did not address PayPal. Also, the record does not include evidence showing that, at the time of the denial, the Board communicated the specific reason for the denial.

LEGAL ANALYSIS AND CONCLUSION

Pursuant to the New Jersey Medical Assistance and Health Services Act, N.J.S.A. 30:4D-1 to - 19.5, the DMAHS is responsible for administering Medicaid. N.J.S.A. 30:4D-5. Through its regulations, the DMAHS establishes "policy and procedures for the application process" N.J.A.C. 10:71-2.2(b). "[T]o be financially eligible, the applicant must meet both income and resource standards." In re Estate of Brown, 448 N.J. Super. 252, 257 (App. Div. 2017); see also N.J.A.C. 10:71-3.15; N.J.A.C. 10:71-1.2(a).

In the Medicaid application process, the applicant bears the burden of establishing program eligibility by a preponderance of the credible evidence. Alford v. Somerset Cnty. Welfare Bd., 158 N.J. Super. 302, 310 (App. Div. 1978).⁵ While the Medicaid applicant is "the primary source of information . . . , it is the responsibility of the agency to make the determination of eligibility and to use secondary sources, when necessary, with the applicant's knowledge and consent." N.J.A.C. 10:71-1.6(a)(2). "If the applicant's resource statements are questionable, or there is reason to believe the identification of resources is incomplete, the [county social services agency] shall verify the applicant's resource statements through one or more third parties." N.J.A.C. 10:71-4.1(d)(3).

If verification is required in accordance with the provisions of N.J.A.C. 10:71-4.1(d)(3), the [county social services agency] shall . . . verify the existence or nonexistence of any cash, savings or checking accounts, time or demand deposits, stocks, bonds, notes receivable or any other financial instrument or interest. Verification shall be accomplished through contact with financial institutions, such as banks, credit unions, brokerage firms and savings and loan associations. Minimally, the [county social services agency] shall contact those financial institutions in close proximity to the residence of the applicant or the applicant's relatives and those institutions which currently provide or previously provided services to the applicant.

[N.J.A.C. 10:71-4.2(b)(3).]

⁵ On appeal, petitioner must prove her eligibility by a preponderance of the credible evidence. In re Polk, 90 N.J. 550, 560 (1982).

Thus, while the “primary obligation” is on petitioner, the Board has the “available option to seek verification documents directly from collateral sources to supplement or clarify essential information.” N.J.A.C. 10:71-1.6(a)(2); N.J.A.C. 10:71-2.10.

“Under N.J.A.C. 10:71-2.2, the case worker must communicate with the applicant regarding the claimed deficiencies and then, under N.J.A.C. 10:71-2.10(b), provide an opportunity for the applicant to verify, supplement or clarify the information before denying an applicant.” M.L. v. Essex Cnty. Div. of Fam. Assistance & Bens., 2025 N.J. Super. Unpub. LEXIS 407, *8 (App. Div. March 18, 2025).⁶ In this regard, the caseworker must provide “prompt notification to ineligible persons of the reason(s) for their ineligibility.” N.J.A.C. 10:71-2.2(c).

In M.L., 2025 N.J. Super. Unpub. LEXIS 407, the applicant, a nursing home resident, applied to the Division of Family Assistance and Benefits (DFAB) for Medicaid benefits. The DFAB requested Wells Fargo bank account and financial statements for specific months, and a Pre-Admission Screening form. Id. at *2. M.L. produced the bank account statements. The DFAB did not issue a subsequent request for additional information. It ultimately denied the application because M.L. did not provide “financial statements (including bank statements, pre-paid account statements and direct express statements) from April 2018 through September 2020 and explanations for \$2,100 ATM withdrawal on 1/4/21, \$3,000 withdrawal on 4/5/21 and \$2,000 ATM withdrawal on 1/20/2022 all from Wells Fargo Checking Account ending in [xxxx].” Id. at *2–3. While the administrative law judge reversed the denial, the DMAHS instead found that M.L. did not produce all of the documents required by the DFAB and “did not ask for additional time to provide the necessary information, nor was there any documented exceptional circumstance warranting an extension of time to produce the requested documents.” Id. at *4.

The Appellate Division reversed. It noted that after M.L. responded to the DFAB’s request for information, the case worker’s “duty was to review the pending application

⁶ Unpublished and administrative decisions are not precedential. This and other decisions are referenced here because they provide relevant guidance.

and notify [M.L.] concerning what, if any, additional information was required to make an eligibility determination.” Id. at *10. However, the case worker denied the application “and only then informed [M.L.] his application was deficient.” Ibid. In reversing the DFAB and DMAHS, the court highlighted that “state agencies must ‘turn square corners’ in the exercise of statutory responsibilities with members of the public.” Id. at *9 (quoting W.V. Pangborne & Co., v. N.J. Dep’t of Transp., 116 N.J. 543, 561–62 (1989)). “When this bedrock principle is read together with the above regulations, we easily reach the dispositive legal conclusion: both the DFAB case worker . . . and [M.L.] had a duty under the regulations to take affirmative steps to communicate with each other regarding the . . . pending application. The scope of this joint duty clearly includes the parties’ efforts to clarify prior communications about a pending application.” Id. at *9–10. The court thus remanded the matter and directed the DHAMS and DFAB to identify the remaining records needed to verify [M.L.’s] eligibility; “request, with specificity, any necessary verification documents”; provide a reasonable amount of time for M.L. to submit the documents; and make a new eligibility determination. Id. at *10.

Here, petitioner⁷ clearly communicated to the Board that there were significant obstacles that were outside her control that prevented her from reporting her financial history in detail. There is no evidence in the record that the Board reacted to this communication in a manner consistent with the regulations. That is, it did not endeavor to use collateral sources to obtain the missing information. This was compounded by the Board’s apparent failure to specifically describe the type of information that was required.⁸ Also, there is no record that the Board explained that it required information about the PayPal deposits prior to its denial of the application. And there is no evidence that the Board promptly notified petitioner of the reason for its finding that she was ineligible. Taken together, these facts present circumstances similar to those in M.L. Even if the Board advised petitioner that she needed to produce information about PayPal deposits, it was aware that petitioner had unsuccessfully attempted to access financial data and faced significant obstacles outside her control. And, further, the Board did not meet its obligation to attempt to gather the information. For this reason, I **CONCLUDE** that it is

⁷ Through her representative.

⁸ While it issued a second request for documents, and thus extended the deadline for submission, the request was basically identical to the first.

appropriate for the Board to reopen petitioner's application; enumerate the documents that petitioner must produce; grant petitioner additional time to produce those documents; and exercise its authority to use other sources to help locate the missing information. If the Board again denies petitioner's application after this inquiry, petitioner may appeal that determination.

ORDER

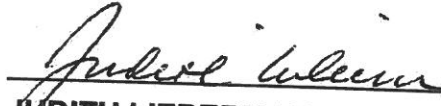
Based upon the foregoing, petitioner's appeal is **GRANTED** to the extent that the Board shall reopen her Medicaid application; enumerate the documents that she must produce; grant her additional time to produce those documents; and exercise its authority to use other sources to help locate the missing information.

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.

April 8, 2025

DATE


JUDITH LIEBERMAN, ALJ

Date Record Closed:

March 25, 2025

Date Filed with Agency:

Date Sent to Parties:

APPENDIX

Witnesses

For petitioner:

R.P.

P.R.P.

For respondent:

Kurt Eichenlaub, HSS3

Exhibits

For petitioner:

None

For respondent:

- R-A Application
- R-B Denial notice
- R-C Requests for information
- R-D Bank statements
- R-E Communication to Board on behalf of petitioner