



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. HMA 10479-24

AGENCY DKT NO. N/A

R.S.,

Petitioner,

v.

**SUSSEX COUNTY BOARD OF
SOCIAL SERVICES,**

Respondent.

Lauren S. Marinaro, Esq., for petitioner (Fink, Rosner, Ershow-Levenberg,
Marinaro, LLC, attorneys)

Kerry Garvey, Assistant Administrative Supervisor of Family Services, for
respondent, appearing pursuant to N.J.A.C. 1:1-5.4(a)(3)

Record Closed: February 24, 2025

Decided: March 5, 2025

BEFORE **PATRICE E. HOBBS**, ALJ:

STATEMENT OF THE CASE

Petitioner appeals the denial of the Medicaid application for a failure to timely provide documentation. Did respondent erroneously terminate Petitioner? No. Petitioner has fifteen days to provide the requested documentation under N.J.A.C. 10:71-2.2(e).

PROCEDURAL HISTORY

On May 6, 2024, respondent terminated the petitioner for failing to provide the requested documentation. On May 13, 2024, petitioner filed a timely appeal. On July 25, 2024, the case was transmitted from the Division of Medical Assistance and Health Services to the Office of Administrative Law (OAL) for a hearing as a contested case under N.J.S.A. 52:14B-1 to-15 and N.J.S.A. 52:14F-1 to-13. The case was scheduled for a hearing on January 14, 2025, and was adjourned because the petitioner had a death in the family. The case was scheduled for hearing on February 13, 2025, and was adjourned again, at the opposition of the respondent, because the petitioner had a second application pending awaiting approval. On February 24, 2025, the hearing took place, and, on that date, I closed the record.

FINDINGS OF FACT

Based upon 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 **FACTS**:

1. R.S. is a disabled individual who has been disabled since July 2020.
2. R.S. had insurance through the State of New Jersey since July 2020.
3. On February 28, 2024, N.S., R.S. mother, filed an application for Family Care, Aged, Blind, Disabled, insurance with respondent. On March 4, 2024, respondent received the application. (R-3.) N.S. has a durable power of attorney since October 2020 and is authorized to pursue this appeal. (R-9.)
4. On March 8, 2024, respondent sent R.S. and N.S. a Request for Information request a list of additional information. (R-2.)
5. On March 18, 2024, N.S. provided some but not all the requested information. (R-4.)
6. N.S. provided an Irrevocable Qualified Income Trust (QIT) (R-5) document which was not previously disclosed on the application.
7. On April 10, 2024, respondent sent another Request for Information to N.S. requesting a new list of information for the QIT and other bank account

- information. Respondent requested that this information be provided by April 24, 2024. (R-6.)
8. Petitioner failed to provide the documentation by the requested date and respondent sent petitioners a letter of termination dated May 6, 2024. (R-7.)
 9. On April 16, 2024, Respondent confirmed that the QIT had a balance of \$3530.97. (R-8.)
 10. Petitioner produced a typed letter dated April 21, 2024, addressed to "To Whom it May Concern". (P-1.) N.S. said this was hand-delivered to the respondent but respondent has no record of this document in their file.

CONCLUSIONS OF LAW

Congress created the Medicaid program under Title IX of the Social Security Act, 42 U.S.C. 42 U.S.C. §§ 1396 et seq. Medicaid is funded by the federal government and administered by the states, including New Jersey. A.K. v. Div. of Med. Assistance and Health Servs., 350 N.J. Super. 175 (App. Div. 2002). Participating states must establish Medicaid eligibility standards that conform to the parameters of the federal statute and the regulations promulgated by the Secretary of Health and Human Services. Wisc. Dep't of Health & Family Servs. v. Blumer, 534 U.S. 473, 479, 122 S. Ct. 962, 966, 151 L. Ed.2d 935, 943 (2002). New Jersey participates in Medicaid through the New Jersey Medical Assistance and Health Services Act. N.J.S.A. 30:4D-1 et seq. The Commissioner of the Department of Human Services has promulgated regulations implementing New Jersey's Medicaid Only program to include income and resource eligibility standards. N.J.A.C.10:71-1.1 to -9.5.

A Medicaid applicant must provide sufficient information for the county welfare agency (CWA) to determine eligibility. The CWA also has responsibilities during the application process to assist the applicants in exploring their eligibility for assistance and to inform the applicants of 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).

Likewise, an applicant must assist the CWA in securing evidence that corroborates his or her statements on the application. N.J.A.C. 10:71-2.2(e).

Generally, CWA must process an application for MLTSS in ninety days for a disabled applicant. N.J.A.C. 10:71-2.3(a). When the complete processing of an application is delayed beyond ninety days, written notification shall be sent to the applicant 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 if there is 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 circumstances wholly outside the control of both the applicant and CWA. Id.

Petitioner relies on 42 CFR 435.915(6)(ii)(A) which allows for ninety calendar days to determine eligibility. Petitioner argues that this is the first time she has had to provide this information and the entire process is new to her. While it is unfortunate that the process for a disabled individual is more complicated than a regular application because of the QIT and the requirements that regulate those trusts, petitioner has had since May of 2024 to provide this information and to ask for additional time to provide the information. Instead, petitioner completed a new application with assistance from her attorney in the hopes of obtaining insurance for R.S. to prevent a discontinuation in services. At no time during the process did the petitioner request additional time to provide the information or provide the information. Petitioner relies on her letter dated April 21, 2024, addressed "To Whom it May Concern". Petitioner states that she hand delivered this to the agency. However, all the documents in the file have been produced and this letter is not in the agency's file. Assuming *arguendo* that the agency did receive the petitioner's letter, the letter does not request additional time to provide any missing documents and instead states that because R.S. is disabled he cannot provide the documents. It is important to note that N.S. has had durable power of attorney since 2020 and has the necessary authority to obtain any missing documents. It is also important to note that a complete itemized list of missing information was provided to the petitioner. Since that time, petitioner has not obtained the requested information necessary to approve the application.

Based on the above, I **CONCLUDE** that the CWA established by a preponderance of credible evidence that R.S. has not timely provided all the required documentation and there are no exceptional circumstances that exist under N.J.A.C. 10:71-2.2(e). I **CONCLUDE** that the Medicaid application must be **DENIED**.

ORDER

Based upon the foregoing, it is **ORDERED** that the application for Medicaid Benefits 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.

March 5, 2025

DATE



PATRICE E. HOBBS, ALJ

Date Received at Agency:

March 5, 2025

Date Mailed to Parties:

March 5, 2025

APPENDIX

WITNESSES

For Petitioner:

N.S.

For Respondent:

Kerry Garvey

EXHIBITS

For Petitioner:

P-1 Letter dated April 21, 2024

For Respondent:

- R-1 Case Summary
- R-2 Request for Information, dated 3/8/24
- R-3 Application for R.S., dated 2/28/24
- R-4 Completed Request for Information
- R-5 QIT, dated 1/27/21
- R-6 Request for Information, dated 4/10/24
- R-7 Termination letter, dated 5/6/24
- R-8 QIT Balance, dated 4/16/24
- R-9 Durable Power of Attorney, dated 10/20/2020