



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

PO Box 712

TRENTON, NJ 08625-0712

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

JENNIFER VELEZ
Commissioner

VALERIE HARR
Director

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

P.M.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE :

AND HEALTH SERVICES,

RESPONDENT.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 18597-2013

As Director of the Division of Medical Assistance and Health Services, I have reviewed the record in this case, including the Initial Decision and the documents in evidence. Respondent filed exceptions. Procedurally, the time period for the Agency Head to file a Final Agency Decision in this matter is August 11, 2014, in accordance with an Order of Extension.

This matter concerns Petitioner's application for Medicaid benefits. She had previously been receiving Medicaid benefits through her eligibility in the Supplemental Security Income (SSI) program. When her father died in March 2013, she was no longer eligible for SSI as she began receiving \$1,218 in survivor benefits as an adult disabled child. ID at 3. As such her Medicaid benefits were terminated and she had to be evaluated for another program using

a higher income limit. Petitioner applied for benefits under the Community Care Waiver (CCW) which requires that her resources be at or below \$2,000.

At issue are two life insurance policies from Bollinger/Monumental and United Insurance companies that totaled \$2,769. Petitioner also has a bank account with a balance of \$710.13 as of September 1, 2013. As a result on October 18, 2013 Petitioner's application for the CCW program was denied for excess resources.

On appeal, Petitioner claimed that the life insurance accounts were inaccessible to her due to the death of her parents who were her guardians. N.J.A.C. 10:71-4.4(b)(6). Her sister received Letters of Substitute Guardianship on December 6, 2013. At the hearing the ALJ found that since Petitioner "was declared incompetent in 1993, and legal guardians were appointed . . . [i]t is evident from the record that petitioner lacked the capacity to deal with the life insurance policies." ID at 9. The Initial Decision also found that the holding in I.L. v. DMAHS, 389 N.J.Super. 354 (App. Div. 2006) applied in this case. However, the ALJ cautioned that since the guardian was appointed after the denial, the matter should be "remanded for a current revaluation as to eligibility due to the changed circumstances."

I have reviewed the record and find evidence contradicting the finding that "petitioner lacked the capacity to deal with the life insurance policies." As the record contains instances of Petitioner signing documents to access the policies, the facts here are significantly different from I.L. Thus, I FIND that Petitioner's claim that she was unable to take action regarding the value of the life insurance

policies is belied by three documents signed by the Petitioner herself regarding the policies and REVERSE the Initial Decision.

Prior to her sister being appointed guardian on December 6, 2013, Petitioner signed her name on a document relating to the life insurance. On November 19, 2013, Petitioner executed a change of beneficiary for Monumental Life which is the Bollinger policy. P-O-2. In signing that document, Petitioner made certain legal statements concerning revocation of prior beneficiary designations, reserving the right to make other changes and certifying that there are "no insolvency or bankruptcy proceedings" pending against her.

Then on December 16, 2013, after her sister had been appointed guardian and before a notary public, Petitioner signed a "Request for Policy Change or Copy of Policy" for United to change the beneficiary of that policy to her pre-paid funeral trust. P-O. In that document Petitioner's signature follows a statement of understanding about the changes to the policy. In addition to the notary, another witness signed the document.

Finally on February 21, 2014 before another notary, Petitioner signed yet another "Request for Policy Change or Copy of Policy" regarding her United policy. P-O-5. There is nothing in the record to show that either insurance company refused to acknowledge or honor Petitioner's signature.

Moreover, the record contains two instances of Petitioner signing documents. The first, dated September 10, 2013, deals with the "Rights and Responsibilities" section of the Medicaid application. R-1. Although Petitioner's sister signed the first page as the person initiating the application, Petitioner's signature appears on page 8 below a number of statements including "I

[Petitioner's name], have read or had read to me the statements on this page. I understand those statements. Upon penalty of perjury, I swear that the answers I have given on this application are complete and correct. I am the person represented by the signature on this document."

On an undated form, Petitioner's signature appears on an authorization to request financial institutions to furnish information to process the Medicaid application. While this signature is not dated, it was likely signed around the time of the application in August or September 2013.

Based on these three instances regarding the insurance policy and two other instances regarding other legal documents, it cannot be said that Petitioner did not have the ability to deal with the insurance policies. During the course of the Medicaid application and before and after Petitioner's sister was appointed guardian, Petitioner was executing forms for a variety of purposes. I FIND that the record clearly shows Petitioner's signature on documents pertaining to the insurance policies prior to and after a guardian being appointed and demonstrate that she had the ability to access the policies.

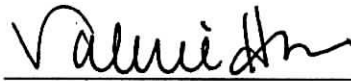
Thus, for the reasons set forth above, I hereby REVERSE the Initial Decision and find that Petitioner's application was properly denied due to excess resources.

THEREFORE, it is on this ^{8th} day of AUGUST 2014

ORDERED:

That the Initial Decision is hereby REVERSED; and

That Petitioner's denial due to excess resources is UPHELD.

A handwritten signature in black ink, appearing to read "Valerie Harr", written over a horizontal line.

Valerie Harr, Director
Division of Medical Assistance
and Health Services