

**NOT FOR PUBLICATION WITHOUT THE  
APPROVAL OF THE APPELLATE DIVISION**

This opinion shall not "constitute precedent or be binding upon any court." Although it is posted on the internet, this opinion is binding only on the parties in the case and its use in other cases is limited. R. 1:36-3.

**SUPERIOR COURT OF NEW JERSEY  
APPELLATE DIVISION  
DOCKET NO. A-2422-21**

DONNA WALTON,

Petitioner-Appellant,

v.

BOARD OF TRUSTEES,  
PUBLIC EMPLOYEES'  
RETIREMENT SYSTEM,

Respondent-Respondent.

---

Submitted April 26, 2023 – Decided June 28, 2023

Before Judges Currier and Bishop-Thompson.

On appeal from the Board of Trustees of the Public Employees' Retirement System, Department of the Treasury, PERS No. xx9998.

Donna Walton, appellant pro se.

Matthew J. Platkin, Attorney General, attorney for respondent (Melissa H. Raksa, Assistant Attorney General, of counsel; Yi Zhu, Deputy Attorney General, on the brief).

PER CURIAM

Petitioner appeals from the February 17, 2022 final agency decision denying her request to reopen her application for accidental disability retirement benefits. After reviewing the record, we affirm.

Petitioner worked as a principal clerk typist for the Department of Education. She applied for accidental disability retirement benefits in June 2015<sup>1</sup>, alleging she suffered from a disabling psychiatric condition resulting from an incident that occurred in July 2010.

In January 2016, the Division of Pensions and Benefits informed petitioner she was not eligible for accidental disability retirement benefits, and she should amend her application to one for ordinary disability retirement benefits. The Division also advised petitioner that N.J.A.C. 17:2-6.1(e)(2)<sup>2</sup> required an application for ordinary disability benefits be supported with at least two medical reports, one from a psychiatrist or psychologist and the other either from a second physician or the production of hospital records supporting the disability. Although the documentation was due within six months of the

---

<sup>1</sup> Petitioner also left her employment at that time.

<sup>2</sup> This provision has been revised twice since 2016. The provision cited is now at N.J.A.C. 17:2-6.1(g)(2). We refer to the record provision for clarity.

benefits application, because that time had already elapsed, the Division accorded petitioner an additional two months to produce the required documents. Under the regulation, the application would be closed if the documentation was not submitted in the required timeframe. The Division reminded petitioner in March 2016 of the necessity to provide the documents.

After petitioner appealed the denial of her application for accidental retirement disability benefits to the Board of Trustees of the Public Employees' Retirement System (Board), the Board advised it would process her application if the required documentation was received by April 18, 2016. When petitioner failed to provide the documents, the Division closed her application in June 2016.

In November 2016, petitioner filed a second application for accidental disability retirement benefits. However, she again did not provide the required supporting documents. The application was administratively closed in April 2017.

Petitioner appealed from the administrative decision to close her application. The Board granted her an extension of time until October 2017 to submit the requisite medical documentation. Petitioner thereafter presented the Division with a medical examination form completed by a nurse practitioner and

some medical documents. Neither the report nor the documentation complied with N.J.A.C. 17:2-6.1(e)(2).

Therefore, the Board denied petitioner's request to reopen her 2016 application as noncompliant with N.J.A.C. 17:2-6.1(e). After appeal and transfer to the Office of Administrative Law for a hearing, the Administrative Law Judge (ALJ) found it was unreasonable for the Board not to reopen petitioner's application because the report from the treating medical professional was not from a psychiatrist or psychologist.

On February 17, 2022, the Board issued its final agency decision denying petitioner's request to re-open her 2016 application. Although the Board adopted the ALJ's factual findings, it rejected the legal conclusion regarding the sufficiency of the submitted medical documentation. The Board noted petitioner submitted her medical documentation the day after the extended deadline. And the medical report submitted by a nurse practitioner did not satisfy the requirement under N.J.A.C. 17:2-6.1(e) to support the disability application with a report from a "psychiatrist or psychologist."

"Our review of [an] administrative agency action is limited." Russo v. Bd. of Trs., Police & Firemen's Ret. Sys., 206 N.J. 14, 27 (2011). "We recognize that agencies have 'expertise and superior knowledge . . . in their specialized

fields.'" Hemsey v. Bd. of Trs., Police & Firemen's Ret. Sys., 198 N.J. 215, 223 (2009) (alteration in original) (quoting In re License Issued to Zahl, 186 N.J. 341, 353 (2006)). Therefore, we will not "substitute [our] own judgment for the agency's, even though [we] might have reached a different result." In re Stallworth, 208 N.J. 182, 194 (2011) (quoting In re Carter, 191 N.J. 474, 483 (2007)).

For those reasons, "an appellate court ordinarily should not disturb an administrative agency's determinations or findings unless there is a clear showing that (1) the agency did not follow the law; (2) the decision was arbitrary, capricious, or unreasonable; or (3) the decision was not supported by substantial evidence" in the record as a whole. In re Virtua-W. Jersey Hosp. Voorhees for a Certificate of Need, 194 N.J. 413, 422 (2008). "The burden of demonstrating that the agency's action was arbitrary, capricious or unreasonable rests upon the person challenging the administrative action." In re Arenas, 385 N.J. Super. 440, 443-44 (App. Div. 2006).

The factual "findings of an ALJ 'are considered binding on appeal, when supported by adequate, substantial and credible evidence.'" Oceanside Charter Sch. v. N.J. State Dep't of Educ., 418 N.J. Super. 1, 9 (App. Div. 2011) (quoting

In re Taylor, 158 N.J. 644, 656 (1999)). The review of an agency interpretation of law is de novo. Russo, 206 N.J. at 27.

Petitioner contends she complied with the pertinent regulation, entitling her to a reopening of her retirement benefits application. We disagree.

Petitioner's submitted documents did not comply with the statutory requirements. A nurse practitioner is not a psychiatrist or psychologist. Petitioner did not present a report or a form filled out by a person licensed in either of those specialties. Petitioner has not complied with the plain language of the regulation. See DiProspero v. Penn., 183 N.J. 477, 492 (2005) (instructing courts give statutory words their ordinary meaning and significance).

We are satisfied the Board's decision denying petitioner's application for accidental retirement disability benefits was based on the substantial credible evidence in the record and a correct interpretation of the controlling regulation and principles of law.

Affirmed.

I hereby certify that the foregoing  
is a true copy of the original on  
file in my office.



CLERK OF THE APPELLATE DIVISION