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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-2937-20**

L.U.,

Petitioner-Appellant,

v.

**DIVISION OF MEDICAL
ASSISTANCE AND
HEALTH SERVICES,**

Respondent-Respondent.

Submitted May 15, 2023 – Decided May 23, 2023

Before Judges Gooden Brown and Mitterhoff.

On appeal from the New Jersey Department of Human Services, Division of Medical Assistance and Health Services.

L.U., appellant pro se.

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

PER CURIAM

Self-represented petitioner L.U. appeals from a May 11, 2021 final agency decision of the Department of Human Services, Division of Medical Assistance and Health Services (DMAHS), denying his request for a fair hearing. We affirm.

We glean these facts from the record. L.U. is a Medicaid beneficiary. By letter dated April 29, 2021, L.U. contacted DMAHS's Fair Hearing Unit requesting a hearing, but failed to specify the agency action being challenged. L.U. had previously forwarded to DMAHS an October 27, 2020 letter from the United States Department of Health and Human Services, Office for Civil Rights, rejecting L.U.'s purported discrimination complaint against his managed care organization for "[im]proper treatment [of his] medical condition." In addition, L.U.'s prior complaint against DMAHS filed in the Superior Court, Special Civil Part, seeking compensation "for what ha[d] happened to [his] health" had been dismissed without prejudice on April 28, 2021. Prior to the dismissal, L.U. had acknowledged during oral argument that he had received uninterrupted Medicaid benefits since 1996 and his benefits had covered all his medical expenses.

On May 11, 2021, DMAHS denied L.U.'s request for a fair hearing. Citing N.J.A.C. 10:49-10.3(b) and 42 C.F.R. § 431.220, DMAHS explained that an individual was entitled to a fair hearing "to contest an action by Medicaid regarding eligibility or services," but "there [was] no basis to grant [L.U.] a fair hearing" because L.U. had submitted nothing that was "actionable." Moreover, L.U. had acknowledged that "th[e] matter ha[d] nothing to do with [L.U.] trying to seek [M]edicare or [M]edicaid." This appeal followed.

Our review of an agency's determination is limited. "Where [an] action of an administrative agency is challenged, a presumption of reasonableness attaches to the action . . . and the party who challenges the validity of that action has the burden of showing that it was arbitrary, unreasonable or capricious." Barone v. Dep't of Hum. Servs., Div. of Med. Assistance & Health Servs., 210 N.J. Super. 276, 285 (App. Div. 1986) (internal quotation marks omitted) (quoting Boyle v. Riti, 175 N.J. Super. 158, 166 (App. Div. 1980)).

In making that determination, our task is limited to deciding:

- (1) whether the agency's decision offends the State or Federal Constitution;
- (2) whether the agency's action violates express or implied legislative policies;
- (3) whether the record contains substantial evidence to support the findings on which the agency based its action;
- and (4) whether in applying the legislative policies to the facts, the agency clearly erred in

reaching a conclusion that could not reasonably have been made on a showing of the relevant factors.

[A.B. v. Div. of Med. Assistance & Health Servs., 407 N.J. Super. 330, 339 (App. Div. 2009) (quoting George Harms Constr. Co. v. N.J. Tpk. Auth., 137 N.J. 8, 27 (1994)).]

"[W]e must give due deference to the views and regulations of an administrative agency charged with the responsibility of implementing legislative determinations." Barone, 210 N.J. Super. at 285. Nevertheless, we are "in no way bound by the agency's interpretation of a statute or its determination of a strictly legal issue." R.S. v. Div. of Med. Assistance & Health Servs., 434 N.J. Super. 250, 261 (App. Div. 2014) (quoting Mayflower Sec. Co. v. Bureau of Sec., 64 N.J. 85, 93 (1973)).

Pertinent to this appeal,

[a]n opportunity for a fair hearing shall be granted to all claimants requesting a hearing because their claims for medical assistance are denied or are not acted upon with reasonable promptness, or because they believe the Medicaid Agent or NJ FamilyCare-Plan A program has erroneously terminated, reduced or suspended their assistance.

[N.J.A.C. 10:49-10.3(b).]

Similarly, federal regulations require administrative hearings where "the agency has taken an action erroneously, denied his or her claim for eligibility or for

covered benefits or services, or issued a determination of an individual's liability, or has not acted upon the claim with reasonable promptness." 42 C.F.R. § 431.220(a)(1).

Here, DMAHS's denial of L.U.'s request for a fair hearing was neither arbitrary, capricious, nor unreasonable, and was fully supported by the record and the applicable state and federal regulations. L.U. failed to identify a cognizable challenge to any agency action and, by his own admission, was not contesting any Medicaid eligibility determination or claim denial.

Affirmed.

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



CLERK OF THE APPELLATE DIVISION