



N.J.S.A. 52:14B-10 which requires an Agency Head to adopt, reject, or modify the Initial Decision within 45 days of receipt. The Initial Decision in this matter was received on January 29, 2015.

This matter concerns the denial of Petitioner's September 2013 Medicaid application for failing to provide documents needed to determine eligibility. On June 11, 2013, an individual associated with Kresson View Center, a long term care facility, filed a Medicaid application on behalf of Petitioner with the Camden County Board of Social Services (CCBSS).<sup>2</sup> Over the next year, CCBSS sent three letters requesting documents pertaining to Petitioner's financial resources and granted two extensions of time to respond. On June 24, 2014, CCBSS denied Petitioner application for failure to provide the requested verifications.

Petitioner claims that she provided all the documentation requested in the November 2013 letter. Petitioner also claims she did not have enough time to compile the new documentation requested in CCBSS' May 2014 letter, and that she should have been afforded an extension of time to obtain the remaining documents. The Administrative Law Judge (ALJ) agreed, reversed the denial of Petitioner's application and ordered CCBSS to process the application with the June 11, 2013 date. Based on my review of the record and for the reasons set forth below, I hereby REVERSE the Initial Decision and uphold the June 24, 2014 denial due to failure to provide verifications.

Eligibility for medical assistance is governed by regulations adopted in accordance with the authority granted to the Commissioner of the New Jersey

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<sup>2</sup> On February 1, 2013, Sharon Alexander, Esq., of Prince, Youngblood & Massagge was appointed guardian of Petitioner's estate. On May 1, 2013, Alexander notified Kresson View of her appointment. On June 5, 2013, Kresson View acknowledged the guardianship. On June 11, 2013, Kresson View applied for Medicaid on behalf of Petitioner and submitted an authorized representative form signed by Petitioner's daughter and guardian of Petitioner's person.

Department of Human Services and the Division of Medical Assistance and Health Services. N.J.S.A. 30:4D-7. In determining Medicaid eligibility for someone seeking institutionalized benefits, the counties must review five years of financial history. N.J.A.C. 10:71-4.10. County Welfare Agencies (CWA) must determine eligibility for Aged cases within 45 days and Blind and Disabled cases within 90 days. N.J.A.C. 10:71-2.3(a); MedCom No. 10-09, and Fed. Reg. 42 CFR 435.91. The time frame may be extended when “documented exceptional circumstances arise” preventing the processing of the application within the prescribed time limits. N.J.A.C. 10:71-2.3(c).

In cases where an application cannot be completed within the designated time period, the CWA must be able to demonstrate that the delay resulted from one of the following:

- (1) Circumstances wholly within the applicant's control;
- (2) A determination to afford the applicant...a further opportunity to develop additional evidence of eligibility....;
- (3) An administrative or other emergency that could not reasonably have been avoided; or
- (4) Circumstances wholly outside the control of the applicant and CWA.

N.J.A.C. 10:71-2.3(c); MedCom No. 10-09.

The regulation does not require CCBSS to grant an extension beyond the designated time period when the delay is due to circumstances outside the control of both the applicant and the CWA. At best, an extension is permissible. N.J.A.C. 10:71-2.3; S.D. vs. DMAHS and Bergen County Board of Social Services, No. A-5911-10 (App. Div. February 22, 2013). Nevertheless, CCBSS granted two of Petitioner's requests for extensions of time to respond. The first extension request, dated September 25, 2013, came in response to CCBSS' September 29, 2013 submission



deadline. Petitioner requested a three week extension until October 20, 2013 to provide the documentation. On November 1, 2013, almost two weeks after the deadline, Petitioner provided a partial response and requested another extension of time until December 30, 2013 to obtain the remaining documents, specifically Petitioner's birth certificate. There is no evidence in the record that Petitioner sent or Respondent received all the information requested by its September 2013 letter. There is certainly no evidence in the record to establish receipt of the birth certificate pursuant to the extension deadlines. Petitioner's representative testified that the birth certificate was provided sometime after the extension in January 2014. This is unsupported by the record and undermined by Petitioner's email records which show that her guardian did not obtain the birth certificate until April 28, 2014 and that it was not submitted to CCBSS until April 30, 2014.

This also undermines Kresson View's claim that it received no response from the county for almost six months after supplying the birth certificate. In fact, less than a month later, on May 22, 2014, Kresson View inquired as to the status of the application. On May 23, 2014, Petitioner was given an additional opportunity to submit missing verifications, specifically a BNY Shares statement, First Citizen Bank statements and verifications of funds deposited upon the closing of a Beneficial account. The notice required submission by June 7, 2014. Petitioner did not provide (or resubmit) the requested documentation, but requested a third extension of time to respond.<sup>3</sup> Petitioner's final request for extension was received via email and responded to with an automatic out of office reply. It provided no explanation for the delay in obtaining the

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<sup>3</sup> Petitioner claims that she completely responded to Respondent's September request for information, making the newly requested BNY statements the only outstanding documents. However, Petitioner does not make any mention of this in her June 4, 2014 email requesting an extension of time to respond. She merely states "the last documents are being obtained by the Guardian and we should have them in hand by June 30, 2014 if not sooner."

requested documents, claiming that they would be available by June 30, 2014. Petitioner made no further attempt to obtain an extension and failed to submit any materials by the deadline.<sup>4</sup>

Petitioner's authorized representative, Kresson View Director of Customer Relations Elisa McGlindey, either knew or should have known, when she filed the application on Petitioner's behalf, that petitioner would be required to produce five years of financial information.<sup>5</sup> In fact, CCBSS' June 11, 2013 letter requested "Proof of all resources 6/2008 to present: opened or closed bank accounts, stocks, bonds, certificates of deposit, IRA, property other than your current residence..." This would include the BNY stock requested in CCBSS' final notice. Surely, Petitioner would not assume that she is prohibited from disclosing all of her financial resources until or unless each item is specifically identified by the county welfare agency. Consequently, the request for BNY stock was not new, but rather outstanding for approximately one year.

Furthermore, N.J.A.C. 10:71-2.3(c) permits a relaxation of the prescribed time limits where "documented exceptional circumstances arise." CCBSS held Petitioner's application open for one year, issued three requests for information, honored two extensions and accepted late submissions before issuing a denial for failure to provide documentation. The final request for extension failed to provide the county with any exceptional circumstance surrounding the delay, only that Petitioner's guardian was obtaining the requested documents. Petitioner's guardian had been working on her behalf since February 2013 and Kresson View had been working with Petitioner's

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<sup>4</sup> The remaining requested documents were received by Tyffani Estrada on September 30, 2014 and presented to the county sometime thereafter, well past the June 30, 2014 extension request.

<sup>5</sup> The June 5, 2013 letter from Lucy Cannon, Kresson View Medicaid Specialist, to Prince, Youngblood and Masagee, specifically states that they are applying for Medicaid on behalf of Petitioner and need information concerning Petitioner's assets and resources.

guardian since June 2013, just prior to application. As noted above, after a year of working with Petitioner's guardian to obtain financial information requested upon application, the mere request for financial documents is not exceptional. No evidence has been presented to establish the existence of exceptional circumstances warranting a third extension of time pursuant to N.J.A.C. 10:71-2.3(c).

I FIND that Petitioner has failed to timely provide the financial verifications requested by CMCBSS. I further FIND that Petitioner does not meet the exceptional circumstances test outlined by N.J.A.C. 10:71-2.3(c).

THEREFORE, it is on this <sup>16<sup>th</sup></sup> day of MARCH 2015

ORDERED:

That the Initial Decision is hereby REVERSED; and

That Petitioner's June 2013 application remains denied.



Valerie Harr, Director  
Division of Medical Assistance  
and Health Services