

January 31, 2022 and April 29, 2022, respectively, for failing to provide documentation necessary to determine eligibility.

Both the County Welfare Agency (CWA) and the applicant have responsibilities with regard to the application process. N.J.A.C. 10:71-2.2. Applicants must complete any forms required by the CWA; assist the CWA in securing evidence that corroborates his or her statements; and promptly report any change affecting his or her circumstance. N.J.A.C. 10:71-2.2(e). CCBSS as the County Welfare Agency (CWA) exercises direct responsibility in the application process to inform applicants about the process, eligibility requirements and their right to a fair hearing; receive applications; assist applicants in exploring their eligibility; make known the appropriate resources and services; assure the prompt and accurate submission of data; and promptly notify applicants of eligibility or ineligibility. N.J.A.C. 10:71-2.2(c) and (d). CWAs 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. However, 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). 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).

The issue presented here is whether CCBSS correctly denied Petitioner's January 31, 2022 and April 29, 2022 Medicaid applications for failure to provide verification necessary to determine eligibility.¹ In relation to Petitioner's second application for benefits, filed with

¹ Petitioner's first application was filed on August 31, 2022, and was denied for failure to provide documentation. Petitioner appealed the denial and the matter was transmitted to the OAL under Docket No. HMA 10191-21 wherein the denial was affirmed.

CCBSS on January 31, 2022, CCBSS requested various documents through letter dated March 2, 2022 with a March 16, 2022 deadline, including the verification of several deposits and withdrawals made into and from a TD Bank account that was jointly owned by Petitioner and her spouse, copies of personal and business tax returns for Petitioner's spouse for the period of 2016-2020, proof of the status of any business that was owned by Petitioner's spouse, including proof of whether the business has been dissolved, sold, or transferred. R-3. On March 18, 2022, after speaking with CCBSS, wherein Petitioner's counsel was informed that the documentation provided regarding the deposits at issue was insufficient, Petitioner's counsel requested and was granted an extension until April 1, 2022 to provide the required documents. To confirm the conversation, CCBSS issued a letter to Petitioner's counsel advising that "[a]s previously requested, please find the attached Med-Fin-1 forms for TD Bank account ending #0350 listing deposit transactions that require clear verification of the source of all deposits listed." R-5. The letter further notes:

FYI... The copies submitted of [E.S.M.]'s pay checks are insufficient as clear proof of the sources of the listed deposits. Please provide verification from TD Bank of the cash that you reported was being withdrawn by [E.S.M.] when he cashed his weekly pay checks. As in the initial Request for Information letter, please see below information to reference examples of supporting verification that can be submitted.

ibid. Additionally, the letter provided that

Verification is required for all transactions of \$2,000 or more. Any transaction, such as checks/deposits/withdrawals and transfers for \$2,000 and over, need to be explained and have supporting documentation such as cancelled checks, deposit slip, receipts, invoices, source of deposits, corresponding bank statement, etc. (please note a personal statement alone is not sufficient verification but may be provided with other documents.)

ibid.

On April 1, 2022, Petitioner's counsel forwarded information pertaining the TD Bank account. Specifically, the correspondence advised that bank statements from the business owned by E.S.M., previously owned by Petitioner's spouse, were included to show the source

of checks issued to E.S.M. P-5. The correspondence additionally provided that E.S.M. did not deposit these checks into any account and there are no deposit slips or corresponding bank statements from his account. Ibid. It was advised that E.S.M. cashed his paychecks with the bank teller for cash, and therefore, there were no receipts or invoices for the transactions. Ibid. Counsel's letter also stated that "[v]erification from the bank is enclosed."² Ibid. On April 12, 2022, Petitioner's application was denied for failure to provide the requested verifications related to the source of the various deposits made into Petitioner's joint bank account. R-6.

On April 27, 2022, Petitioner filed a third application for Medicaid. In connection with that application, CCBSS sent a request for additional documents to Petitioner's counsel on May 13, 2022. The letter requested information related to the sale of Petitioner's Atco, NJ property, information related to the sale of a business owned by Petitioner's spouse, and "sufficient proof of the deposits on the enclosed Med-Fin-1 transaction forms." Respondent 2. The deposits listed are the same deposits at issue in Petitioner's January 2022 application. On May 27, 2022, Petitioner's counsel provided documents relating to the Atco property and advised CCBSS about the status of ownership of the business previously owned by Petitioner's spouse. Counsel also reiterated that E.S.M. would cash his paycheck on a weekly basis at TD Bank and hand a portion of the cash to his father, to deposit into Petitioner's joint bank account. Respondent R-4. The letter set forth E.S.M.'s yearly salary for the time period at issue and the estimated total amount of the funds deposited into the joint account. Ibid. On June 9, 2022, CCBSS issued another letter requesting documentation, including "[s]ufficient proof of the sources of deposits on the enclosed Med-Fin-1 transaction forms . . . You previously reported that these were gifts from [E.S.M.]. However, documents previously submitted are not sufficient to support the source(s). Please

² It appears that this correspondence was a letter from David Le Munyon, Vice President of TD Bank. P-7.

provide sufficient verification.” Respondent 6. The request also stated “[y]ou previously provided copies of gift tax returns on 1/22/2022 for the past 5 years; however, there was no verification to show that these gift tax returns were recorded. Please provide proof that the gift tax returns provided were filed/record with the IRS.” Ibid.

On June 23, 2022, Petitioner’s counsel provided additional documentation, including additional explanations related to the deposits made into Petitioner’s joint bank account. Specifically, counsel advised that to date, she had provided an affidavit signed by E.S.M., asserting that the deposits were gifts paid by him to Petitioner and her spouse; two letters from TD Bank verifying that during the relevant period, E.S.M. cashed his entire paycheck every week, the funds were not deposited into his bank account but were provided in cash, and no additional proof the transactions exist; and paychecks proving that E.S.M. earned sufficient funds on a weekly basis to fund the cash deposits in question. P-17. Counsel additionally requested that CCBSS specifically advise her as to what additional verification is being requested that can demonstrate that the source of these deposits were gifts. Ibid. On July 27, 2022, CCBSS denied Petitioner’s April 2022 application, advising that Petitioner failed to provide “[c]opies of the filed/recorded gift tax returns for tax years 2016-2021, filed/record business tax returns for [E.S.M.’s business] for the tax years 2016-2021, and sufficient proof of the sources of deposits listed on the Med-Fin-1 for [Petitioner’s joint bank account].” Respondent R-7.

The Initial Decision reversed the denial, finding that Petitioner provided CCBSS with complete information about her financial assets, and CCBSS inappropriately denied Petitioner’s Medicaid applications. Based upon the unique facts and circumstances of this particular matter and the credibility determinations made by the Administrative Law Judge (ALJ), I concur with that conclusion. Petitioner’s counsel made every effort to verify the source of the deposits at issue in this matter. However, she and Petitioner were limited by the circumstances of the how the funds were provided to Petitioner and her spouse by E.S.M.

As noted in counsel's June 23, 2022 letter to CCBSS, multiple attestations from E.S.M and the bank were provided to CCBSS. Verification of E.S.M.'s paychecks and bank statements for his business were also provided. However, CCBSS found that none of this was sufficient to satisfy its request, and did not advise counsel of what documentation would be responsive based upon the narrative and documentation already provided. It does not appear that additional documentation could be provided that would satisfy the request because traditional ways of verifying the source of the funds do not exist in this matter. Accordingly, I FIND that CCBSS improperly denied Petitioner's January 2022 and April 2022 Medicaid applications.

While I agree that the denial of Petitioner's applications based upon this failure to provide sufficient documentation was not appropriate in this matter, this does not mean that eligibility has been established. CCBSS's denials were procedural denials because it concluded it did not have enough documentation to determine whether Petitioner was eligible for benefits. Therefore a substantive eligibility determination has not yet been made. Accordingly, I REVERSE the Initial Decision's findings that Petitioner has established eligibility as of January 1, 2022 and RETURN the matter to CCBSS to process Petitioner's application and determine whether eligibility can be established. Specifically, CCBSS should determine whether the deposits at issue are to be considered income that was available to Petitioner, pursuant to N.J.A.C. 10:71-5.1, during the months in question. If it is determined, after a review of the documentation, that Petitioner's application should be denied, CCBSS is directed to issue a determination letter with appeal rights that specifically sets forth the basis for the denial. Petitioner will then have the opportunity to appeal that determination through the fair hearing process.

THEREFORE, it is on this 6th day of SEPTEMBER 2023,

ORDERED:

That the Initial Decision is hereby ADOPTED in part, REVERSED in part, and RETURNED to CCBSS to process Petitioner's application in accordance with this decision.



Jennifer Langer Jacobs, Assistant Commissioner
Division of Medical Assistance and Health Services