

necessary to determine eligibility. On March 30, 2022, Petitioner filed her second Medicaid application with MCBSS. The second page of the application provides the applicant with the opportunity to name an individual to assist them with the application process. (R-A). In response, Petitioner provided the name and contact information of her attorney Richard Angelo, Esq., who also assisted her with her first application. (R-B). Mr. Angelo signed the application and sent a letter of representation and some documentation to MCBSS the same day.

On April 1, 2022, MCBSS issued a request for verifications. Although the notice was sent care of the applicant's attorney, it was not mailed to the attorney's address. The notice was sent to the applicant at the nursing facility. When no response was received, MCBSS sent the denial letter to Petitioner's attorney at the address listed on the application.

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). MCBSS 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 MCBSS 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).

At all times relevant to the application process, Petitioner was assisted by her attorney. MCBSS was aware that Petitioner was represented by Mr. Angelo by virtue of the application disclosure, letter of representation and prior application. The request for information was sent to his attention but mailed to the incorrect address. While it is true that Petitioner did not submit a Designation of Authorized Representative (DAR) form naming Mr. Angelo, MCBSS was provided with a letter of representation which informed the county that Mr. Angelo had been retained as counsel for the Petitioner. It is also true that MCBSS' request for information and Mr. Angelo's letter of representation could have crossed in the mail. Furthermore, it is unclear from the record whether or not Mr. Angelo's March 30, 2022 letter which addressed deficiencies in the first application was considered and determined deficient by the MCBSS. /

As Petitioner's counsel, the request for information should have been provided to Mr. Angelo and he should have been given a reasonable opportunity to respond. Given the totality of circumstances here, it would be appropriate to return this matter to MCBSS for review of Petitioner's March 2022 application. This Final Agency Decision should not be construed as making any findings regarding Petitioner's eligibility.

THEREFORE, it is on this 7th day of FEBRUARY 2023,

ORDERED:

That the Initial Decision is hereby REVERSED; and

That the matter is RETURNED TO MCBSS for further processing of Petitioner's Medicaid application.



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