

with 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 was received on August 7, 2015.

This matter arises from the denial of Petitioner's August 2014 and March 2015 Medicaid applications for failure to provide documentation needed to determine eligibility. The Hudson County Board of Social Services (HCBSS) issued the denial notices on October 3, 2014 and March 4, 2015 respectively. Petitioner appealed the denials and they were transmitted to the Office of Administrative Law (OAL) on November 18, 2014 and April 9, 2015 where they were later consolidated. After several adjournments, the matter was heard as a motion for summary decision. It is unclear from the record which party filed the motion for summary decision or whether the parties submitted cross motions for summary decision. Respondent filed a brief on June 3, 2015 and Petitioner was permitted to make three separate filings on May 4, 2015, June 25, 2015 and July 28, 2015 before the record closed on August 4, 2015. Based on my review of the record below, I hereby REVERSE the Initial Decision and REMAND this case for further factual findings.

Motions for summary disposition of a contested case may be made at any time. The motion must be supported by briefs and affidavits. N.J.A.C. 1:1-12. Summary disposition may be entered where there is no genuine issue as to any material fact and where the moving party is entitled to prevail as a matter of law. See Initial Decision at pages 7 and 8, citing N.J.A.C. 1:1-12.5 and Judson v. Peoples Bank and Trust Co. of Westfield, 17 N.J. 67 (1954). Once the moving party has shown competent evidence of the absence of any genuine issue of fact, the non-moving party must do more than

simply create some doubts as to the material facts; it must raise a factual issue substantial enough to sustain a reasonable conclusion in the non-moving party's favor.

The papers submitted below are not identified as Motions for Summary Decision. There is no way to tell which party filed the motion and neither the timing nor labeling of the briefs provides any clarity. Furthermore, the briefs do not contain Statements of Materials Facts or supporting affidavits. Finally, Petitioner's submission was not complete upon filing. Rather, Petitioner's brief included a subpoena to Comerica Bank for the documentation requested by HCBSS, dated June 4, 2015, a day after Respondent's brief was filed. Petitioner was then permitted to submit the subpoenaed documentation almost a month after it filed its brief and two months after Respondent filed its brief.

The issue below is whether Petitioner timely provided the necessary verification for HCBSS to make an eligibility determination. Both the CWA and the applicant have responsibilities with regard to the application process. N.J.A.C. 10:71-2.2. The rules provide that Petitioner's Medicaid application must be processed within 90 days of filing. N.J.A.C. 10:71-2.3(a). Under Medicaid Communication No. 10-09, the time frame may be extended when "documented exceptional circumstances arise." N.J.A.C. 10:71-2.3.

In order to determine whether the parties fulfilled their obligations with regard to the Medicaid application process, I am REMANDING this matter for further documentation, and testimony where necessary, with regard to Petitioner's Medicaid applications; the initial requests by HCBSS for documentation; all subsequent requests by HCBSS for documentation; the denial notices issued by HCBSS; documented efforts by Petitioner to obtain the requested information; Petitioner's communications with HCBSS stating her difficulty in obtaining the requested information; and any information obtained by Petitioner and the date it was obtained.

THEREFORE, it is on this 17th day of SEPTEMBER 2015,

ORDERED:

That the Initial Decision is hereby REVERSED; and

That this matter is REMANDED to the Office of Administrative Law for additional testimony and documentary evidence.



Valerie J. Harr, Director
Division of Medical Assistance
and Health Services