

## State of New Jersey

DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES
P.O. Box 712
Trenton, NJ 08625-0712

ELIZABETH CONNOLLY

Acting Commissioner

MEGHAN DAVEY
Director

CHRIS CHRISTIE

Governor

KIM GUADAGNO Lt, Governor

STATE OF NEW JERSEY
DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE
AND HEALTH SERVICES

R.B.,

PETITIONER,

٧.

DIVISION OF MEDICAL ASSISTANCE

BURLINGTON COUNTY BOARD OF

AND HEALTH SERVICES AND

SOCIAL SERVICES,

RESPONDENTS.

**ADMINISTRATIVE ACTION** 

FINAL AGENCY DECISION

OAL DKT. NO. HMA 04295-16 HMA 14375-16

As Director of the Division of Medical Assistance and Health Services, I have reviewed the record in this case, including the Initial Decision, the case file and the documents in evidence. No exceptions were filed. Procedurally, the time period for the Agency Head to file a Final Agency Decision in this matter is June 29, 2017 in accordance 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 May 15, 2017.

This matter concerns the denial of Petitioner's December 9, 2015 and April 27, 2016 applications for Medicaid benefits. Petitioner has filed three applications with the Burlington County Board of Social Services (BCBSS). On December 9, 2015, Petitioner's wife, A.B., filed an application for Medicaid benefits on his behalf. BCBSS requested verifications on December 9, 2015 and February 8, 2016. Petitioner partially responded to BCBSS' requests, and as a result, BCBSS denied Petitioner's application on May 7, 2016. On April 27, 2016, Petitioner's attorney filed a Medicaid application on his behalf with the BCBSS. On April 27, 2016 and June 29, 2016. Petitioner's attorney again provided only partial responses and on August 3, 2016 denied Petitioner's second application for Medicaid benefits.

The issue below was whether Petitioner timely provided the necessary verifications for BCBSS to make an eligibility determination. 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. 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. 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 BCBSS 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 ALJ determined that Petitioner's first application for Medicaid was properly denied. I agree and ADOPT the ALJ's determination with regard to Petitioner's December 2015 Medicaid application. The credible evidence in the record indicates that Petitioner failed to provide the needed information prior to the March 7, 2016 denial of benefits. Without this information, BCBSS was unable to complete its eligibility determination and the denial was appropriate.

With respect to Petitioner's second application, the ALJ held that Petitioner's wife's hospitalization and rehabilitation, from June 26, 2016 through mid-August 2016, constituted exceptional circumstances warranting an extension of time to submit the verifications requested by BCBSS. Based on the totality of the circumstances, including the facts that Petitioner was represented by counsel for the entirety of the application process, I do not agree that there are exceptional circumstances pursuant to N.J.A.C. 10:71-2.3(c), and on this point, I REVERSE the Initial Decision.

This is Petitioner's second application for Medicaid benefits.<sup>1</sup> Petitioner was represented by an attorney during the application process for both his first and second Medicaid applications. The December 4, 2015, February 8, 2016, April 27, 2016 and June 29, 2016 BCBSS notices requesting information were provided to Petitioner's attorney. The April and June notices, issued in connection with the second Medicaid application, requested documents still outstanding from Petitioner's first application. Petitioner's attorney was aware that BCBSS provided a July 10, 2016 deadline for the submission of information, and that some of the information had been previously requested in the first

<sup>&</sup>lt;sup>1</sup> Petitioner's currently has a third application for Medicaid pending with the BCBSS.

application.<sup>2</sup> In fact, Petitioner's attorney partially responded to BCBSS on two occasions in July when Petitioner's wife was indisposed and undergoing rehabilitation. However, at no point prior or subsequent to the denial letter did Petitioner's attorney request additional time to submit any outstanding documentation. Furthermore, Petitioner was not able to provide some of the remaining verifications, including the QIT and verifications for accounts ending in 4684 and 0646, until October and November 2016, approximately two to three months after the August 2016 denial.

There is simply nothing in the record to demonstrate that the circumstances of Petitioner's wife's illness prevented the production of documents constituted exceptional circumstances warranting additional time to provide the requested verifications. I FIND that the credible evidence in the record indicates that Petitioner's attorney knew of the July 10, 2016 deadline to submit documentation, and in fact, submitted documentation in response and during the period when Petitioner's wife underwent rehabilitation. Moreover, no request was made for an extension of time to submit the requested documentation. Without this information, BCBSS was unable to complete its eligibility determination and the denial was appropriate.

THEREFORE, it is on this 13 day of JUNE 2017,

ORDERED:

That the Initial Decision is hereby ADOPTED in part and REVERSED in

<sup>&</sup>lt;sup>2</sup> Both the March 2016 and August 2016 denial notices, as well as the requests for information, show that several items, including verifications of transactions for accounts ending in 0646, 4684 and 6989, were requested as part of Petitioner's first application and were still outstanding six months later.

part. Petitioner's first and second Medicaid applications were properly denied for failure to timely provide necessary verification.

Meghan Davey, Director

Division of Medical Assistance

and Health Services