



State of New Jersey
Department of Human Services
Division of Medical Assistance and Health Services

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

H.P.

PETITIONER,

ADMINISTRATIVE ACTION

v.

FINAL AGENCY DECISION

OCEAN COUNTY BOARD OF
SOCIAL SERVICES,

OAL DKT. NO. HMA 1118-18

RESPONDENT.

As Director of the Division of Medical Assistance and Health Services, I have reviewed the record in this case, including the Initial Decision, and the documents in evidence. Neither party submitted exceptions to the Initial Decision. Procedurally, the time period for the Agency Head to file a Final Agency Decision in this matter is June 29, 2018 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, 2018.

This matter concerns the December 28, 2017 denial of Petitioner's Medicaid application due to the failure to provide requested verifications. On August 29, 2017, Petitioner through his representative filed an application for Medicaid benefits with the

Ocean County Board of Social Services (OCBSS). On October 26, 2017, OCBSS issued to Petitioner's representative a request for verifications due on November 9, 2017.¹ On December 5, 2017, OCBSS made another request for verifications due on December 19, 2017. On December 28, 2017, OCBSS denied Petitioner's application for failure to provide verifications. Petitioner appealed and the matter was transmitted to the Office of Administrative Law (OAL) on January 22, 2018. A hearing was held on April 20, 2018.

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). The 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 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. 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 OCBSS 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

¹ In November 2016, attorney James Gluck was appointed by a Superior Court judge as Petitioner's guardian. Beginning in 2003, another attorney acted as Petitioner's conservator.

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 December 28, 2017 notice from OCBSS states that the reason for the denial of Petitioner's Medicaid application was "due to the failure to verify all resources to determine eligibility as the Oppenheimer account was never declared or provided at the time of the application." The notice cites N.J.A.C. 10:71-2.2(d) and the Initial Decision notes that the basis of OCBSS' decision was N.J.A.C. 10:71-2.2(d)(2). In either case, the notice cites the provision of N.J.A.C. 10:71-2.2 that addresses the applicant's responsibilities in the application process and specifically addresses those items that were not provided.

In particular, the Medicaid application itself requires all applicants to disclose all of the applicant's resources including but not limited to checking and savings accounts. The October 2017 and December 2017 requests for information asked Petitioner to "provide any and all pertinent verifications of all resources solely or jointly owned (bank accounts, C.D.'s, stocks, bonds, money market, 401K's, IRA's, annuities, trusts, cash surrender value of life insurance policies, etc.) opened or closed within the last 5 years..." The December 5, 2017 request specifically asked for verification of the Oppenheimer Fund. OCBSS made three requests, including the application, over a four month period before issuing a denial notice for failure to provide. The record contains no testimony or documentary evidence that Petitioner made any effort to provide verifications with regard to the Oppenheimer account prior to the denial or communicate to OCBSS any difficulty or delay in obtaining the necessary documents.²

² Petitioner's attorney appeared at the OAL hearing as both Petitioner's guardian and his only witness. NO exhibits were offered by the Petitioner. Specifically, Petitioner did not present any documentary evidence to support his assertions that his guardian participated in significant written correspondence with Petitioner's conservator to obtain financial information.

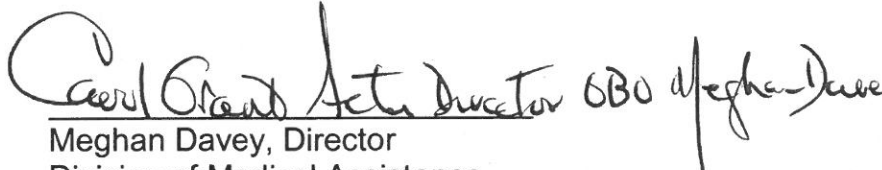
There is simply nothing in the record to demonstrate that there were exceptional circumstances warranting additional time to provide the requested verifications. At all times relevant to the application process, Petitioner had the assistance of counsel. At no point during the process did Petitioner, through any of his representatives, address the Oppenheimer fund or request an extension of time to submit the necessary documentation. Petitioner did not provide the requested information before the December 28, 2017 denial, which was 122 days from the filing of Petitioner's Medicaid application. I am unpersuaded that the circumstances in this case merit an extension of time.

Based on my review of the record and for the reasons set forth above, I hereby REVERSE the Initial Decision and reinstate Ocean County's denial.

THEREFORE, it is on this 12th day of JULY 2018,

ORDERED:

That the Initial Decision is hereby REVERSED.


Meghan Davey, Director
Division of Medical Assistance
and Health Services