



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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Commissioner

JENNIFER LANGER JACOBS
Assistant Commissioner

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

H.T.,

PETITIONER,

v.

MORRIS COUNTY BOARD OF
SOCIAL SERVICES

RESPONDENTS.

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ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 08506-19

As Assistant Commissioner of the Division of Medical Assistance and Health Services, I have reviewed the record in this case, including the Initial Decision, the OAL case file and the documents filed below. Petitioner and Respondent filed exceptions in this matter. Procedurally, the time period for the Agency Head to file a Final Agency Decision in this matter is November 21, 2019 in accordance with an Order of Extension. The Initial Decision in this matter was received on August 21, 2019.

This matter arises from the Morris County Board of Social Services (MCBSS) May 21, 2019 notice denying Petitioner's Medicaid application for failure to timely provide information necessary to determine eligibility. Petitioner, through her son and representative, has filed three Medicaid applications with MCBSS in the past fifteen

months. Petitioner's first application was filed on May 29, 2018 and denied on July 24, 2018.¹ Petitioner's second application was filed on March 29, 2019 and denied on May 21, 2019. Petitioner's third application is currently pending determination. Petitioner's second Medicaid application, filed on March 29, 2019, is the application currently at issue before the court.

Petitioner's first two Medicaid applications were denied for failure to provide information. MCBSS sent four requests for information in conjunction with these two applications. As of April 17, 2019, information requested during the processing of the first application was still outstanding during the review of Petitioner's second application. Thereafter, on May 9, 2019, MCBSS followed up with a fifth request for information. The May 9, 2019 notice asked for explanations with regard to several specific transactions and verification that all accounts had been spent below \$2,000, but did not contain any of the outstanding information listed in its April 17, 2019 notice. On May 19, 2019, Petitioner emailed a response to MCBSS' May 9, 2019 request for information, and requested confirmation that the response was received and all their requests had been addressed. MCBSS confirmed that the response had been received, but on May 21, 2019, denied Petitioner's application for failure to provide a response to the May 9, 2019 request for information.

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

¹ Petitioner did not appeal the MCBSS July 24, 2018 denial. Petitioner presented for the first time, with exceptions, a certification stating that he requested a fair hearing with regard to the July 2018 denial. He stated that the postmaster informed him that the fair hearing address on the denial notice showing a CN-712 designation as opposed to a P.O. Box 712 designation would cause his letter to be undeliverable. Not only does the certification contain hearsay, it was drafted and signed after the Initial Decision was issued, was not presented to or considered by the ALJ, was not part of the record below and, therefore, will not be considered here. Moreover, the Fair Hearing Unit at DMAHS receives mail with the CN-712 designation. Petitioner does not claim that the request was returned to him as undeliverable and did not follow up with the Fair Hearing Unit about the status of his request. He makes no mention of it in the October 2018 email referenced in his certification and in fact waits to raise the issue until more than a year after the denial was issued, in conjunction with the hearing regarding Petitioner's second application.

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 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 most, 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).

Contrary to the Initial Decision, I do not find that MCBSS failed to assist Petitioner in the application process. Petitioner was not forthcoming with financial information on either of her Medicaid applications. As a result, each request from MCBSS resulted in the need for additional information. Moreover, the Initial Decision incorrectly concludes that the first request for additional documents regarding the Sussex Bank account appeared in the May 21, 2019 denial notice, when in fact it was previously requested on May 9, 2019. MCBSS is not required to grant an extension beyond the designated time period, and an extension of time was not clearly requested here. However, Petitioner did timely respond to the May 9, 2019 request and asked that MCBSS confirm that everything needed had been received. MCBSS' response confirming receipt may have conveyed to the Petitioner that the request had been fulfilled. Therefore, under the unique circumstance here, I FIND

that MCBSS should have given Petitioner additional time to respond if more documentation was needed to determine eligibility.

Accordingly, based on the unique facts and circumstances here, Petitioner's eligibility should be determined in connection with her second application for Medicaid. That being said, based on the evidence provided by Petitioner, it appears that she may not be resource eligible for Medicaid benefits until August 2019. That, however, is still to be determined by the county.

THEREFORE, it is on this ^{25th} day of OCTOBER 2019,

ORDERED:

That the Initial Decision is hereby ADOPTED in so far as Petitioner should have been given additional time to respond to MCBSS' request for information; and

That the Initial Decision is MODIFIED to reflect that the reason for granting additional time was not the result of MCBSS failing to assist in the application process; and

That the matter is RETURNED to MCBSS to determine Petitioner's eligibility for Medicaid in connection with the application denied in MCBSS' May 21, 2019 notice. This Final Agency Decision should not be construed as making any findings regarding Petitioner's eligibility.



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