



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

J.C.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE

AND HEALTH SERVICES AND

BURLINGTON COUNTY BOARD OF

SOCIAL SERVICES,

RESPONDENTS.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 7146-2019

As Assistant Commissioner for 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 briefs filed below. Neither party filed exceptions in this matter. Procedurally, the time period for the Agency Head to render a Final Agency Decision is November 29, 2019 in accordance with an Order of Extension.

The matter arises regarding the denial of Petitioner's Medicaid application due to the failure to provide information. In October 2018, Petitioner, through his daughter, filed an application for Medicaid benefits. While it was not disclosed on the application, on December 20, 2018, Burlington County asked for information regarding a trust which

named Petitioner as a beneficiary. When the trust was not provided, Burlington County issued a denial letter dated January 28, 2019.

Petitioner's daughter had mailed the trust document prior to receiving the denial notice. As a result Burlington County agreed to review the trust, which had been executed on June 13, 2017 by Petitioner's mother in Massachusetts. Burlington County sought more information regarding the assets used to form the trust and issued that notice on February 21, 2019 with a due date of March 7, 2019.

On March 7, 2019, Petitioner's counsel sent a letter via facsimile stating that "no other information [about the trust] will be provided" as it was irrelevant to the eligibility determination. The letter contained legal citations and arguments to support the refusal. As such Burlington County issued a denial letter that same day and the matter was transmitted to OAL.

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 circumstances. N.J.A.C. 10:71-2.2(e). The facts surrounding a trust where an applicant is a beneficiary is on such circumstances that needs to be explored. See N.J.A.C. 10:71-4.1(c)(1) and N.J.A.C. 10:71-4.11.


It appears that in August 2019 during the course of the hearing, Petitioner provided an affidavit from the trustee concerning the funding of the trust. However, as the Initial Decision noted, the case was denied on the failure to provide information. Petitioner declared in March 2019 that the information would not be provided, as according to the several legal citations the trust would not impact his Medicaid application. R-7. As there was no request to extend the time to provide the requested information, Burlington County denied the application.

I understand that Burlington County incorrectly styled the questions regarding a Special Needs Trust pursuant to N.J.A.C. 10:71-4.11(g)xii and 42 U.S.C.A. § 1396p(d)(4)(A) and Petitioner's position that the trust is a third party trust. However, Burlington County's questions regarding the funding of the trust are germane to the analysis for Medicaid eligibility. The trust is written in accordance with Massachusetts law. Petitioner cited the Social Security Administration's guidance in its Program Operations Manuals (POMS) when he refused to provide any more information. That guidance cautions during a review of a third party trust to "[b]e alert for situations where a trust is allegedly established with the assets of a third party but in reality is created with the trust beneficiary's property. In such cases, the trust is a grantor trust, not a third party trust." See <https://secure.ssa.gov/apps10/poms.nsf/lrx/0501120200>. Additionally, there are local rules for the treatment of trusts in Massachusetts which caution that even if the trust is not a resource, distributions must be reviewed for income. See <https://secure.ssa.gov/apps10/poms.nsf/lrx/0501120200BOS>. Therefore, I FIND that Burlington County's questions about the trust were relevant to making the Medicaid eligibility determination. Petitioner's refusal to provide information made it impossible for Burlington to verify the effect of the trust on Petitioner's Medicaid eligibility and I FIND that the denial was appropriate.

THEREFORE, it is on this ^{26th} day of NOVEMBER 2019,

ORDERED:

That the Initial Decision is hereby ADOPTED.


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