



This matter arises from the Morris County Office of Temporary Assistance (MCOTA) October 9, 2019 denial of Petitioner's Medicaid application for failure to provide verifications.

Petitioner is a seventy-nine-year-old nursing home resident. The issue presented here is whether Petitioner provided the necessary verifications for the MCOTA to make an eligibility determination with regard to Petitioner's April 2019 Medicaid application. This is Petitioner's third Medicaid application. In determining Medicaid eligibility for someone seeking institutionalized benefits, the counties must review five years of financial history. N.J.A.C. 10:71-4.10. Where Petitioner has filed multiple Medicaid applications, the federal government has directed all fifty states to calculate the look back period based upon the first application for Medicaid. Centers for Medicare and Medicaid Services, State Medicaid Manual §3258.4(C). In this case, Petitioner's first application for Medicaid was filed on February 12, 2018 resulting in a look back period beginning February 2013 for Petitioner's first, second and third applications. Accordingly, MCOTA requested bank statements beginning in February 2013 and verification of her husband's resources from February 2013 until his death in November 2017.<sup>1</sup>

MCOTA made four requests for information in connection with Petitioner's third Medicaid application.<sup>2</sup> The verifications were due by September 21, 2019. The credible evidence in the record indicates that Petitioner failed to provide the needed information prior to the September 21, 2019 deadline or the October 9, 2019 denial of benefits. In fact, the record shows that Petitioner did not attempt to obtain the requested bank records until seven months after the October 2019 denial letter. Furthermore, contrary to Petitioner's testimony, there is no evidence in the record that they attempted to obtain a letter indicating the bank records were no longer available or that the bank refused to provide such a letter.

Without the requested information, MCOTA was unable to complete its eligibility

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<sup>1</sup> There was some confusion with regard to Petitioner's marital status as one application indicated she was widowed while another indicated she was divorced. Ultimately, Petitioner's son testified that his parents were estranged but not divorced at the time of his father's death. ;

<sup>2</sup> Four additional requests for this bank account information and resource verification were made in connection with Petitioner's first and second Medicaid applications.

determination and the denial was appropriate.

In Exceptions, Petitioner requests that the matter be remanded to the OAL for a new hearing because the transcript of the hearing was inaudible. Petitioner does not request that the matter be remanded to reconstruct the record. Notably, Petitioner does not take exception with any of the ALJ's factual discussion or findings with regard to testimony. Rather, Petitioner takes exception with the substance of MCOTA's September 11, 2019 request for information because it does not specifically reference Petitioner's husband's resource verification. Petitioner was made aware of the need for this information on at least two occasions with regard to this Medicaid application; on at least two other occasions with regard to her first and third Medicaid applications and has acknowledged that it was not provided to the MCOTA.

Next, Petitioner's takes exception with the ALJ's finding that Petitioner did not meet her burden to establish that she is not entitled to any of her deceased husband's assets or that the request for information regarding those assets is improper. Petitioner argues that because she was estranged from her husband for many years, she was not entitled to an elective share of his estate. In support of this position, Petitioner submitted an undated Divorce Agreement that was never filed in court. There is no divorce decree, nor is there a copy of Petitioner's husband's showing that she was either disinherited or omitted. While Petitioner purports to have lived separate and apart from her husband since December 1984, the document submitted is notarized by an individual whose term expires in 2016.<sup>3</sup> Petitioner does not explain this nor does she provide any citations to support her argument that the CWA's decision ran contrary to Medicaid regulations and elective share statutes.

Finally, even if Petitioner were successful on the issue concerning her spouse's resources, she still failed to provide either the requested bank statements or a letter from the bank stating they no longer retained copies of said statements. Petitioner takes exception

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<sup>3</sup> The term of a New Jersey Notary commission is five years.


with the ALJ's determination that she failed to provide these documents and argues that the request for said documents could not be made until a fair hearing was scheduled. The existence of transcript has no bearing on this finding. The record shows that Petitioner has been aware of the need to submit these documents for more than a year prior to the October 2019 denial. She has had the assistance of a legal guardian since at least February 2019 and counsel, but still has not provided the requested documentation. The argument disintegrates further as the matter was transmitted to the OAL in December 2019 and Petitioner did not request the aforementioned records until May 2020.

The documentary evidence in the record shows that Petitioner did not provide the requested documentation in connection with her third Medicaid application. Based on my review of the record, I concur with the ALJ's findings and hereby ADOPT the Initial Decision.

THEREFORE, it is on this 14<sup>th</sup> day of SEPTEMBER 2020,

ORDERED:

That the Initial Decision is hereby ADOPTED.

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