



State of New Jersey

DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES
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Director

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

L.H.

PETITIONER,

v.

HUDSON COUNTY BOARD OF
SOCIAL SERVICES,

RESPONDENT.

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ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

**OAL DKT. NO. HMA 15251-19
On Remand from HMA 02554-19**

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 filed Exceptions to the Initial Decision. Procedurally, the time period for the Agency Head to render a Final Agency Decision is March 26, 2020 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 February 10, 2020.

This matter arises from the Hudson County Board of Social Services' (HCBSS) December 19, 2018 notice denying Petitioner's Medicaid application for failure to timely provide information necessary to determine eligibility. This matter was previously transmitted

to the Office of Administrative Law (OAL) on February 7, 2019 and an Initial Decision issued on June 24, 2019. On July 30, 2019, by way of Final Agency Decision, the Director remanded the matter to the OAL for further proceedings to determine if HCBSS properly notified Petitioner of the documentation necessary to determine eligibility, and if those documents were not provided to HCBSS, whether exceptional circumstances existed warranting additional time to provide said documentation.

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). HCBSS as the County Welfare Agency (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 HCBSS 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).

On November 9, 2018, Petitioner, through her daughter, L.H., filed a Medicaid application with HCBSS. On November 19 and December 4, 2018, HCBSS sent requests for information including, but not limited to, a copy of Petitioner's husband's (B.H.) social

security card, copies of pension statements and titles to vehicles. The information requested was due December 18, 2018. Petitioner did not provide this information to HCBSS prior to the December deadline. Therefore, on December 19, 2018, HCBSS denied Petitioner's Medicaid application.¹

At the hearing, Petitioner argued that exceptional circumstances existed such that she should have been given additional time to provide the requested documentation. Specifically, Petitioner argued that she had filed for guardianship of her mother in December 2018 and needed time to receive the order granting guardianship before she could provide any additional information requested by HCBSS. This position is problematic for a few reasons. First, while Petitioner did notify HCBSS that she was filing for guardianship, she did not specify why this affected her ability to respond to the request for information. Second, Petitioner did not request an extension of time to provide the outstanding items. Third, and perhaps most important, the pension statements were in B.H.'s name, not Petitioner's. According to the guardianship filing, B.H. was alert and aware and able to give his consent. There is seemingly no reason why B.H. couldn't have procured the pension statements. Finally, even if B.H. were unable to obtain the pension statements, L.H. held power of attorney for B.H. Therefore, nothing prevented L.H. from providing the pension statements requested by HCBSS. There is simply nothing in the record to support a finding that L.H.'s application for guardianship was necessary to fulfill Petitioner's obligations with regard to the application process. Consequently, the record does not support a finding of exceptional circumstances warranting additional time to provide the requested information.

With regard to the request for a copy of B.H.'s social security card, N.J.A.C. 10:72-2.3 requires verification of an applicant's social security number and all sources of income of any person whose income must be counted when determining eligibility. N.J.A.C. 10:72-2.3 (7),

¹ HCBSS' December 19, 2018 denial letter stated that Petitioner failed to provide "a clear copy of social security card for spouse, copy of title for both vehicles, copy of pension statements/stub, signed and completed addendums, and a copy of All State Insurance policy." At the hearing, both parties agreed that the only items still at issue were the social security card and pension statements. ID at 3.

(8). Although it is requested, Petitioner did not provide her husband's social security number on the Medicaid application. To the extent, HCBSS could use B.H.'s social security number to determine his resources through electronic, or other means, it would first need to be verified. A phone call to ask for a number that was not previously provided and certified to on the application is not sufficiently verified. I find no failure to communicate on the part of HCBSS. Petitioner attempted to fax a copy of B.H.'s social security card three times, and each time, HCBSS informed her that they could not read the copy. There is no evidence in the record that Petitioner tried another means to provide a clear copy to HCBSS. Again, I find that this does not constitute an exceptional circumstance warranting additional time to provide the verifications.

THEREFORE, it is on this 7th day of May, 2020,

ORDERED:

That the Initial Decision is hereby REVERSED.


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