



a Final Agency Decision is August 29, 2022, in accordance with an Order of Extension. The Initial Decision was received on May 31, 2022.

Based upon my review of the record, I hereby ADOPT the Initial Decision in its entirety and incorporate the same herein by reference. The issue presented here is whether the ALJ correctly dismissed Petitioner's appeal of the Medicaid Fraud Division's (MFD) March 22, 2019 notice of a claim in the amount of \$586,664.84, which was determined as a result of an investigation showing that Petitioner had inappropriately received Medicaid funds. The purpose of discovery is to streamline the hearing and enhance the likelihood of settlement or withdrawal. N.J.A.C. 1:1-10.1. At the OAL, discovery disputes are addressed during telephone conferences with the Administrative Law Judge (ALJ) and the parties. N.J.A.C. 1:1-10.4(d). An ALJ may impose sanctions for failure to comply with any order of a judge or with any requirements of N.J.A.C. 1:1-14.4. The judge may: dismiss or grant the motion or application, suppress a defense of claim; excluded evidence; order cost of expenses to be paid to the state or aggrieved representative or party; or take other case-appropriate action. N.J.A.C. 1:1-10.5. and N.J.A.C. 1:1-14.

On November 19, 2019, Respondent first served discovery upon Petitioners. On February 24, 2020, ninety-seven days later, Petitioner's provided Respondent with a partial response to the discovery demand. The ALJ held at least ten teleconferences wherein the parties discussed outstanding discovery issues. Shortly before the June 9, 2021 discovery status call, Petitioner's served a second response to request for admissions and an initial response to Respondent's request for document production. These still deficient responses came nearly a year and a half after the discovery demands were made. During a June 29, 2021 teleconference, the parties were given an opportunity to address the deficiencies. The deficiencies were not resolved and Respondent filed a motion to dismiss Petitioner's complaint and exclude evidence pursuant to N.J.A.C. 10:1-10.5; 1:1-14.4 and 1:1-14.5.

The Petitioner seems to argue that because there was no written order to produce discovery, they cannot be in violation of said order and the matter should not be dismissed. The argument ignores nearly two years, ten discovery status conferences and its own deficient and untimely responses. The fact that partial responses came 568 days after discovery requests were served leads me to agree with the ALJ that Petitioner has not demonstrated a sufficient interest in pursuing this matter and responding to discovery requests. I FIND that the matter should be dismissed.

THEREFORE, it is on this 2nd day of AUGUST 2022,

ORDERED:

That the Initial Decision is hereby ADOPTED.



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