



**State of New Jersey**

DEPARTMENT OF HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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*Assistant Commissioner*

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

I.F.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE

AND HEALTH SERVICES AND

OCEAN COUNTY BOARD

OF SOCIAL SERVICES,

RESPONDENTS.

**ADMINISTRATIVE ACTION**

**FINAL AGENCY DECISION**

**OAL DKT. NO. HMA 02093-2021**

As Assistant Commissioner for the Division of Medical Assistance and Health Services, I have reviewed the record in this case, including the Initial Decision and the Office of Administrative Law (OAL) case file. Petitioner filed exceptions in this matter. Procedurally, the time period for the Agency Head to render a Final Agency Decision is January 13, 2022, in accordance with an Order of Extension.

This matter arises from the January 2021 denial of Petitioner's Medicaid application due to her failure to provide information that was necessary to determine eligibility. Based

upon my review of the record, I hereby ADOPT the findings and conclusions of the Administrative Law Judge (ALJ).

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 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 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 forty-five days and Blind and Disabled cases within ninety days N.J.A.C. 10:71-2.3(a) and 42 CFR § 435.912. The timeframe 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 regulations do not require that the CWA 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. v. DMAHS and Bergen County Board of Social Services, No. A-5911-10 (App. Div. February 22, 2013).

On December 11, 2020, an application for Medicaid benefits was filed on Petitioner's behalf by her Designated Authorized Representative (DAR), Jamie Fraser, an employee of Petitioner's nursing facility. R-1. The application was signed by Fraser on October 28, 2020. Ibid. The DAR form submitted with the application in this matter listed both Fraser and Moshe Norman, another employee of Petitioner's nursing facility, as Petitioner's DARs; however, only Fraser signed the DAR as Petitioner's representative. R-2. Two of the signatures on the DAR form that was submitted with the December 11, 2020 application were post-dated

for December 16, 2020, after the date that the application was both signed and submitted.<sup>1</sup> ID at 6. The Ocean County Board of Social Services (OCBSS) noted that it “did not honor the first DAR” as a result of this issue with the dates. R-6. However, OCBSS proceeded with processing Petitioner’s application, and on December 15, 2020, OCBSS sent a letter to Petitioner directly,<sup>2</sup> requesting verification of certain information that was necessary to process the application, including verification of Petitioner’s unearned income, monthly statements related to Petitioner’s personal needs allowance, verification of all of Petitioner solely or jointly owned resources, and an explanation as to why Petitioner’s 2019 tax return did not match her reported annual pension payments. R-5. It is unclear from the record whether any of the requested verifications were submitted; however, many of the same verifications were subsequently re-requested.

The Norman alleged that on December 30, 2020, a new application and DAR form were submitted to OCBSS on Petitioner’s behalf.<sup>3</sup> P-1. To support this assertion, she submitted a fax confirmation sheet, dated December 30, 2020, that shows that thirty-one pages had been faxed to OCBSS. Ibid. However, the fax cover sheet does not show the specific documents that were faxed to OCBSS, and the documents that Norman purports were sent to OCBSS through use of that fax confirmation only total seventeen pages. Ibid. OCBSS stated that it did not receive a subsequent application on December 30, 2020. OAL-

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<sup>1</sup> A copy of this original DAR form was not included in the record in this matter. The only DAR form provided contained signatures from the parties on December 30, 2020. R-2.

<sup>2</sup> The December 15, 2020 verification letter does not contain an address line at the top of the letter. R-5. The letter states “APPLICANT: [I.F.]” at the top of the letter. Ibid. Norman alleges that because Petitioner’s address is not listed at the top of this letter, it was never properly mailed to Petitioner. However, I note that the absence of Petitioner’s address on the December 15, 2020 letter alone does not support a finding that OCBSS failed to mail the verification letter to Petitioner at his nursing facility address that was set forth on both the December 11, 2020 application or on the subsequent December 30, 2020 verification letter.

<sup>3</sup> The DAR form provided, dated December 30, 2020, again listed both Fraser and Norman as Petitioner’s DARs, but only Fraser signed the DAR form as Petitioner’s representative. P-1.

2. Regardless, the application alleged by Norman to have been submitted on December 30, 2020 is the same application that was previously submitted on Petitioner's behalf on December 11, 2020 and was signed by Fraser on October 28, 2020. P-1.

Also on December 30, 2020, OCBSS sent a second request for verifications to Petitioner directly at her nursing facility, which requested documentation that verified all of Petitioner's room and board charges and private payments to the nursing facility; a letter from the nursing home regarding whether Petitioner had a security deposit and personal needs allowance; copies of monthly statements if Petitioner did have a personal needs allowance; an explanation as to why Petitioner's 2019 tax return did not match Petitioner's reported annual pension payment; documentation verifying where Petitioner's Social Security payments were deposited; and "any and all pertinent verifications of all resources solely or jointly owned (bank accounts, CDs, stocks, bonds, money markets, 401ks, IRAs, annuities, trusts, cash surrender value of life insurance policies, etc.) opened or closed in the last 5 years prior to application. . . ." R-5. Petitioner was provided a deadline of January 11, 2021 to provide the documentation and was advised that if the requested documentation was not provided by said date, her application would be denied. Ibid. Some of the requested documentation was provided by Fraser via emails on January 7, 2020. P-3 and P-4. However, while Fraser mentioned Petitioner's Santander bank account in reference to the 2019 tax return verification request, neither Fraser nor Norman provided bank statements for that account to OCBSS. See P-4. As a result, OCBSS denied Petitioner's application, effective January 27, 2021, for failing "to provide documentation requested in letters dated 12/30/2020 and 12/15/2020." R-4.

The Initial Decision in this matter upheld the denial of Petitioner's application, and I concur. Norman alleged at the hearing and in her exceptions to the Initial Decision that the December 11, 2020 application was not valid because Fraser signed the application and an invalid DAR form was submitted with the application. I disagree. There is nothing in the

record to show that Fraser, Norman, or Petitioner requested that the December 11, 2020 application be withdrawn or that OCBSS was advised that a new application would be submitted. There is also nothing in the record to show that OCBSS rejected the application based upon the post-dated DAR form. Accordingly, OCBSS began processing the application that it received and issued verification letters directly to Petitioner, as the applicant, pending the submission of a corrected DAR form. Because an application was already pending, OCBSS could not process a subsequent application until a determination was issued on the pending application or the pending application was withdrawn. Moreover, the application allegedly submitted by either Norman or Fraser on December 30, 2020 was the same application previously submitted on December 11, 2020 and was signed by Fraser prior to the corrected DAR being executed. It is, thus, unclear why Norman now alleges that the first application submission on December 11, 2020 is invalid, but the alleged submission of the same application nineteen days later is valid.

Further, Norman alleged that if the application's processing time began at the date of the alleged December 30, 2020 application submission, Petitioner's Santander bank statements would have been provided within the forty-five day period, under to N.J.A.C. 10:71-2.3(a) and 42 CFR § 435.912. However, the December 30, 2020 verification letter specifically requested that Petitioner provide verification of all resources solely or jointly owned, including bank statements. R-5. Petitioner failed to provide the Santander bank statements prior to the denial of Petitioner's application, and the statements were submitted in connection with a subsequent application that was filed with OCBSS on January 28, 2021. ID at 8. OCBSS was not required to accept the statements in relation to Petitioner's December 2020 application after the denial letter was issued. See MedCom No. 10-09 (stating "After the denial letter is sent, no further documentation will be accepted by the Agency. The applicant or their representative will be informed that a new application must be submitted."). Additionally, the regulations provide that [t]he maximum period of time normally

essential to process an application for the aged is 45 days.” N.J.A.C. 10:71-2.3(a); See also 42 CFR § 435.912 (providing that “the determination of eligibility for any applicant may not exceed . . . [f]orty-five days for all other applicants.”). The regulation does not provide that a CWA is required to allow documentation submission for the entire forty-five day period nor does it prohibit a CWA from making a determination on an application prior to the expiration of that period of time. Therefore, regardless of the whether the statements were ultimately submitted within forty-five days of December 30, 2020, OCBSS had already made a determination related to Petitioner’s December 2020 application and Petitioner, through her representatives, failed to provide the documentation in the timeframe set by OCBSS or at any time prior to the determination being issued on January 27, 2021.

Accordingly, for the reasons set forth above and those contained in the Initial Decision, I hereby ADOPT the Initial Decision’s conclusion that OCBSS properly denied Petitioner’s application.

THEREFORE, it is on this 11th day of JANUARY 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