



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

M.E.,
PETITIONER,
v.
DIVISION OF MEDICAL ASSISTANCE
AND HEALTH SERVICES AND
MONMOUTH COUNTY DIVISION OF
SOCIAL SERVICES,
RESPONDENTS.
ADMINISTRATIVE ACTION
ORDER OF REMAND
OAL DKT. NO. HMA 10195-2021

As Assistant Commissioner for the Division of Medical Assistance and Health Services (DMAHS), I have reviewed the record in this case, including the Initial Decision and the Office of Administrative Law (OAL) case file. Both parties filed exceptions in this matter. Procedurally, the time period for the Agency Head to render a Final Agency Decision is November 25, 2022, in accordance with an Order of Extension.

This matter arises from the November 29, 2021 denial of Petitioner's Medicaid application due to her failure to provide information that was necessary to determine eligibility. During the underlying proceedings in this matter, the Monmouth County Division

of Social Services (MCDSS) argued that Petitioner's application was also denied due to her being over the income limit to qualify for benefits. Administrative agencies have the discretion to determine whether a case is contested. N.J.S.A. 52:14f-7(a). The OAL acquires jurisdiction over a matter after it has been determined to be a contested case by an agency head. N.J.A.C. 1:1-3.2(a). A contested case is commenced in the State agency with appropriate subject matter jurisdiction. N.J.A.C. 1:1-3.1. DMAHS is the administrative agency within the Department of Human Services (DHS) that is charged with administering the Medicaid program. N.J.S.A. 30:4D-4. MCDSS's November 29, 2021 letter provided that Petitioner's application was being denied "FOR FAILURE TO PROVIDE CORROBORATING EVIDENCE NECESSARY TO DETERMINE ELIGIBILITY, AS REQUESTED AT TIME OF APPLICATION AND LETTERS DATED 10/28/21 and 11/9/21 – SEE ATTACHED. . . ." R-4 (emphasis in original). The letter attached a subsequent page stating that the following documents were still needed: "STATEMENTS DATED 9/1/21 – THE CURRENT DATE FOR # . . ." and "IF THE CLIENT IS IN A FACILITY, PROOF THAT THE CLIENTS [sic] CURRENT GROSS INCOME DOES NOT EXCEED THE FACILITY'S SEMI PRIVATE RATE." Ibid. (emphasis in original). No other issue was transmitted with regard to Petitioner's Medicaid eligibility. Accordingly, while the Initial Decision discussed and made findings related to Petitioner's income, this issue was not properly before the OAL, and the only issue present is whether Petitioner provided the requested documentation necessary to determine eligibility, specifically, outstanding bank statements.<sup>1</sup> For the aforementioned reasons, I

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<sup>1</sup> A letter dated July 9, 2021 from Petitioner's assisted living facility setting forth the semi-room rate and her current room rate was entered into evidence by MCDSS in this matter. R-5. While it is unclear from the record how this letter was provided to MCDSS, it is date stamped by MCDSS as being received on November 19, 2021, which is the same date MCDSS acknowledges receipt of other documents filed by Petitioner's counsel in relation to the October 28, 2021 and November 9, 2021 verification letters. Accordingly, it appears that the only outstanding documents at the time of the denial were specific TD Bank statements.

hereby REVERSE the Initial Decision's findings related to Petitioner's income and qualified income trust.

In relation to Petitioner's alleged failure to provide requested verifications, it must first be noted that 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).

Here, on August 27, 2021,<sup>2</sup> Petitioner's former counsel and Designated Authorized Representative (DAR)<sup>3</sup> Kevin Cropsey, Esq., filed a Medicaid application on Petitioner's

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<sup>2</sup> The application was signed by Mr. Cropsey on August 27, 2021. The application was not marked as received by MCDSS until August 30, 2021. R-1.

<sup>3</sup> I note that the Designation of Authorized Representative Form submitted with Petitioner's August 27, 2021 application was not complete, as Mr. Cropsey's signature was not witnessed. R-1.

behalf with MCDSS. R-1. This was Petitioner's second application for Medicaid benefits. Mr. Cropsey's letter advised that he was including statements for a TD Bank account owned by Petitioner for the period of April 6, 2021 through August 5, 2021 and further advised that he was informed that documentation that was previously submitted in relation to Petitioner's first application would be used for processing the present application. P-1. On October 28, 2021, MCDSS sent a letter to Mr. Cropsey, requesting verification of certain information that was necessary to process the application, including copies of bank statements for one of Petitioner's TD bank accounts for the period of August 6, 2021 through the current date. R-2. The October 28, 2021 letter advised that "IF YOU DO NOT PROVIDE THE FOLLOWING ADDITIONAL INFORMATION BY 11/7/21, YOUR APPLICATION MAY BE DENIED." Ibid. (emphasis in original). On November 9, 2021, MCDSS issued a second letter seeking the verification of the same information requested in the October 28, 2021 letter. R-3. The November 9, 2021 letter advised that "IF YOU DO NOT PROVIDE THE FOLLOWING ADDITIONAL INFORMATION BY 11/19/21, YOUR APPLICATION WILL BE DENIED." Ibid. (emphasis in original).

Through letter dated November 18, 2021, Mr. Cropsey submitted a response and various requested documents to MCDSS. P-4. In his letter, he stated that Exhibit D contained "copies of account statements from March 20, 2017 through November 5, 2021." Ibid. The Initial Decision provided that the submission included approximately 2,000 pages. ID at 5.

On November 29, 2021, MCDSS denied Petitioner's application due to her failure to provide requested verifications, specifically noting that Petitioner failed to provide bank statements from September 1, 2021 through present. R-4.

While it is clear that the issue in this matter centers on whether Petitioner submitted TD Bank statements that were requested by MCDSS, it is unclear from the record what specific statements MCDSS alleges were missing from Mr. Cropsey's November 18, 2021

submission. The Initial Decision provided that while MCDSS's November 29, 2021 denial stated that statements for the months of September 1, 2021 to the current date were missing, "[b]ank statements for this account for August 6, through September 5, 2021, were located by [MCDSS]." ID at 3, footnote 3. MCDSS contends in their exceptions to the Initial Decision that "[t]his agency never received the bank statement that includes the 1<sup>st</sup> moment of the 1<sup>st</sup> day of September, 2021 prior to the 2<sup>nd</sup> denial date of 11/29/2021, which caused this fair hearing." MCDSS's amended exceptions (emphasis in original). MCDSS further states that the missing statements "(i.e. 9/1/2021 & 10/1/2021) were received after the 2<sup>nd</sup> denial and during the process of [Petitioner's] third application that was filed on 1/27/2022. . . ." Ibid. Moreover, a copy of the August 6, 2021 through September 5, 2021 TD Bank statement was not admitted by Petitioner into the record in this matter. The only statements admitted were TD Bank statements for the period of September 6, 2021 through October 5, 2021 and from October 6, 2021 through November 5, 2021. P-6. However, it appears that MCDSS did receive a copy Petitioner's TD Bank statement for the period of October 6, 2021 through November 5, 2021 by November 19, 2021, as a timestamped copy was admitted into evidence by Petitioner in this matter. P-7. It is, thus, unclear which specific statements are at issue.

Accordingly, and for the reasons set forth above, I, also, hereby REVERSE the Initial Decision in relation to the denial of Petitioner's application due to her alleged failure to provide requested verifications and REMAND the matter only to clarify and further develop the record to specifically address which TD Bank statements MCDSS alleges were not provided by Petitioner, including the date ranges of the statements requested, and if those statements were received by MCDSS, on what date they were received. While the statements may have been received by MCDSS after the denial of the present application at issue and filed in relation to Petitioner's subsequent application, MCDSS should provide a timestamped copy of the statements showing the date MCDSS received same.

THEREFORE, it is on this 22nd day of NOVEMBER 2022,

ORDERED:

That the Initial Decision is hereby REVERSED and REMANDED, as set forth herein.



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