

Based upon my review of the record, I hereby ADOPT and MODIFY the Initial Decision. This appeal stems from Essex County's February 4, 2022 notice denying Petitioner's Medicaid application for failure to provide documentation necessary to determine eligibility. On or about January 7, 2022, Petitioner, through his Designated Authorized Representative (DAR) filed a Medicaid application with Essex County. Thereafter, on January 13 and January 24, 2022, Essex County issued letters requesting Petitioner provide certain documentation to verify his eligibility. No information was received and on February 4, 2022 the application was denied.

At the hearing, the Petitioner's son, P.G., testified that he filed an application on his father's behalf. He also testified that he did not receive the January 13th and January 24th letters prior to the denial. Despite changing his testimony, the ALJ found that the Petitioner credibly testified and that "the strength of his testimony was sufficient to rebut any presumption of mailing that could have arisen from the facts presented by the Agency." (ID at 11). The fact-finder's assessment of the credibility of witnesses is entitled to deference by the reviewing agency head. Clowes v. Terminix, 109 N.J. 575 (1988). However, N.J.A.C. 1:1-15.5(b), the **residuum rule**, requires "some legally competent evidence" to exist "to an extent sufficient to provide assurances of reliability and to avoid the fact or appearance of arbitrariness." Petitioner's request for fair hearing undermines this credibility finding.

On February 24, 2022, P.G. requested a fair hearing with regard to Essex County's February 4, 2022 denial. His timely request noted that he disagreed with the decision because, "I received the letter 5 days prior to the due date. I needed a doctor's letter, marriage licenses and bank statements that were not readily available and it was physically impossible to obtain all these documents in 2-3 business days." (R-6). By his own words, P.G. was aware that he only had a few days to provide the requested documents by a specified deadline and that amount of time was insufficient. Yet, nothing in the record indicates that he reached out to Essex County to request an extension of time prior to the denial. Therefore, I FIND that Petitioner did receive at least one notice prior to the denial of Medicaid benefits and did not promptly respond or ask for an extension of time.

However, I am troubled by the lack of documentation in this case. Both parties testified that

an application was filed on January 7, 2022. Both parties testified that in addition to a mailing address, the application included the personal email address and phone number of P.G., Petitioner's DAR. Because the application and requests for information are not part of the record, I cannot say with certainty that the January 13th and 24th notices were mailed to the correct address. Did the application direct Essex County to mail documents to the Petitioner's address or to the DAR's address? And were those documents sent to the designated address? This is particularly important when timeliness of response is at issue.

Therefore, based on the unique facts and circumstances of this case, I FIND that the matter should be returned to Essex County to process Petitioner's January 2022 application to determine if he was eligible for Medicaid benefits. This Final Agency Decision should not be construed as making as findings with regard to Petitioner's eligibility.

THEREFORE, it is on this 7th day of JUNE 2022,

ORDERED:

That the Initial Decision is hereby ADOPTED and MODIFIED.

Gregory Woods OBO

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