



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.T.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE

AND HEALTH SERVICES AND

UNION COUNTY DIVISION OF

SOCIAL SERVICES,

RESPONDENTS.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 02814-2020

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. Petitioner filed exceptions in this matter. Procedurally, the time period for the Agency Head to render a Final Agency Decision is April 14, 2022, in accordance with an Order of Extension.

This matter arises from the December 2019 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 July 11, 2019, an application for Medicaid benefits was filed with the Union County Division of Social Services (UCDSS) on Petitioner's behalf by Ita Gutman, an employee of Petitioner's nursing facility. ID at 2. Ita Gutman was not Petitioner's Designated Authorized Representative (DAR) at the time that the application was filed. On August 8, 2019, Petitioner's daughter, T.L., was appointed as Petitioner's guardian. P-1 at 1-3.

On October 11, 2019, UCDSS sent a letter to Ms. Gutman, requesting bank statements from January 2015 through September 2018 and an explanation of how

resources were spent during that time period. R-1 at 6-10. The letter advised that the requested documentation was due within ten days of her receipt of the letter. Ibid. On November 12, 2019, UCDSS issued a second letter to Ms. Gutman, again requesting bank statements from January 2015 through September 2018 and an explanation of how Petitioner's resources were spent during that time period. Id. at 5. The letter advised that the requested documentation was due within days of Ms. Gutman's receipt of the letter. Ibid.

Through an email on November 26, 2019, Ms. Gutman advised UCDSS that she was "working with the family to obtain the information needed and I am asking for additional time" to provide the requested documentation. P-1 at 10. On or about December 8, 2019, T.L. signed a DAR form, appointing Ms. Gutman as Petitioner's representative in relation to her Medicaid application. Id. at 20-21. It is unclear from the record when the DAR form was submitted to UCDSS. On December 11, 2019, Ms. Gutman sent another email to UCDSS and asked "[i]f you can please allow more time I am working with the daughter on obtaining all of the information needed." Id. at 14. By letter dated December 18, 2019, UCDSS notified Ms. Gutman that Petitioner's application was denied as a result of her failure to provide the requested bank statements and proof of how Petitioner's resources were spent. Id. at 15.

The Initial Decision in this matter upheld the denial of Petitioner's application, and I concur. While Petitioner now alleges that T.L. failed to cooperate with Ms. Gutman in obtaining the requested documentation, there is nothing in the record to show that Ms. Gutman informed UCDSS of the issues she was allegedly facing prior to the denial of Petitioner's application. The two extensions requests submitted by Ms. Gutman to UCDSS on November 26, 2019 and December 11, 2019, respectively, advised that Ms. Gutman was "working with the family" and "working with the daughter" in order to obtain the requested documentation. Id. at 10 and 14. Neither of Ms. Gutman's extension requests mentioned, or supplied documentation related to, Ms. Gutman's attempts to obtain the documentation or T.L.'s failure to assist Ms. Gutman in her attempts to obtain the documentation. While emails

from Ms. Gutman and other employees of Petitioner's nursing facility to T.L. were provided at the hearing in this matter, there is nothing in the record to indicate that these emails were provided to UCDSS. It is unreasonable to expect UCDSS to grant additional extensions of time when Ms. Gutman failed to present any evidence of exceptional circumstances. Working with an applicant's family alone does not constitute an exceptional circumstance that would necessitate an extension of time.

Moreover, I note that Gutman was able to obtain the documentation in spite of T.L.'s alleged uncooperativeness, as the bank statements were obtained and provided to UCDSS with Petitioner's subsequent January 1, 2020 application. ID at 4. At the time the statements were received, T.L. was still Petitioner guardian and was not removed as Petitioner's guardian, at the nursing facilities request, until February 5, 2020. P-1 at 18-19. It is unclear then how Gutman was able to obtain the requested documentation when she alleges that T.L. would not provide assistance or why she could not have obtained the statements prior to the denial being issued.

Petitioner's argument in her exceptions that she is being penalized for needing an additional two weeks to obtain the requested documentation is unfounded. The application completed by Ms. Gutman requested information related to all assets owned and income received by Petitioner. As a result, Petitioner's nursing facility was aware that this information was necessary in order for UCDSS to process Petitioner's application from at least July 11, 2019 when the application was submitted. Moreover, the emails supplied by Petitioner at the hearing in this matter show that Petitioner's nursing facility was aware that documentation would be requested by UCDSS in order to process Petitioner's application even before the first verification letter was issued on October 11, 2019. Specifically, on October 4, 2019, another employee of Petitioner's nursing facility, Robin McCoy, sent an email to T.L., wherein she stated, "[a]ttached please find (2) documents that outline information the Union County

Office for processing Medicaid application is going to need.”<sup>1</sup> P-1 at 4. Further, Ms. Gutman’s email to T.L.’s attorney on October 4, 2019, advised that additional information was necessary because she filed a “bare bones application” and that Petitioner was “clearly over the resources.” Accordingly, it is clear that Petitioner’s nursing facility was aware specific documentation related to Petitioner’s assets and income would be necessary for UCDSS to determine Petitioner’s eligibility for benefits prior to the bank statements being specifically requested by UCDSS.

Further, Ms. Gutman had sixty-eight days between the date of the first verification letter on October 11, 2019 and the denial letter on December 18, 2019 to obtain and provide the requested documentation. Even though the October 11, 2019 letter advised Ms. Gutman that her failure to provide the requested documentation within ten days of her receipt of the letter would result in the denial of Petitioner’s application, UCDSS provided Ms. Gutman more time to provide the requested documentation through the issuance of the November 12, 2019 verification letter. While there is nothing in the record to show that UCDSS affirmatively granted Ms. Gutman’s extension requests following the November 12, 2019 letter, UCDSS kept Petitioner’s application open for weeks past the deadline set forth in that letter. Ms. Gutman failed to provide the documentation within the timeframes provided by UCDSS or at any time prior to the denial of Petitioner’s application. As previously noted, Ms. Gutman failed to advise USDSS of the issues she was allegedly facing in obtaining the documentation and failed to provide any documentation showing what steps she took in order to obtain the documentation.

It is irrelevant that it only took an additional two weeks after the denial for Ms. Gutman to obtain the requested documentation. UCDSS determined that the verifications requested in its letters were necessary in order to process Petitioner’s application and determine eligibility. It is uncontested that Ms. Gutman failed to provide the documentation in the

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<sup>1</sup> It is unclear from the record what these attachments contained.


timeframe set forth by UCDSS or at any time prior to the denial of Petitioner's application. The failure to provide the requested documentation within those timeframes appropriately resulted in the denial of Petitioner's application. There is nothing in the record to reflect that any exceptional circumstances were presented by Ms. Gutman to UCDSS prior to its denial of Petitioner's application that would have necessitated an extension of time to provide the requested documentation.

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

THEREFORE, it is on this 8th day of APRIL 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