

his son B.H., filed an application for Medicaid benefits with Morris County. On December 29, 2021, Morris County sent Petitioner a request for information to verify Petitioner's eligibility. The request included verifications of Petitioner's financial accounts, real estate, and vehicles due back to Morris County by January 8, 2022. On February 3, 2022, Morris County sent out a second notice for much of the same information but with more specific requests due by February 17, 2022. On March 28, 2022, Morris County sent out a third request for verifications due back within 10 calendar days. Still outstanding at the time of the April 11, 2022 denial was verification of a MetLife dividend payment, two cash transfers in the amounts of \$2,600 and \$10,000, and the closure of a Wells Fargo account as well as where the \$6,797.24 balance was transferred. On April 11, 2022, having not received said information, Morris County denied Petitioner's application.

Petitioner's witnesses argue that the Morris County case worker failed to advise them on how to spend down below the \$2,000 resource limit, but this misses the point. Morris County did not deny Petitioner for being over resources. The matter to be decided here is whether or not the Petitioner timely provided verifications necessary to establish his eligibility pursuant to N.J.A.C. 10:71-2.2. All three letters requested the same information, albeit some with more specificity, and all three letters notified the recipient of the Medicaid resource limits.¹ There was no way to determine if the Petitioner was financially eligible until the full financial picture was disclosed. At the time of denial Petitioner's application had been held open for 99 days awaiting the receipt of requested information. Petitioner's failure to timely provide that information is the basis for Morris County's denial; not his income or resource eligibility.

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

¹ Additionally, the application, which was signed and dated by B.H. on behalf of Petitioner, specifically notifies the applicant that "an individual is only permitted to retain \$2,000 or \$4,000 in applicable program resources in order to be eligible."

statements; and promptly report any change affecting his or her circumstance. N.J.A.C. 10:71-2.2(e). MCOTA as the County Welfare Agency (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 and 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 45 days and Blind and Disabled cases within 90 days. N.J.A.C. 10:71-2.3(a); MedCom No. 10-09, and Fed. Reg. 42 CFR 435.91. However, the time frame 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 regulation does not require UCBSS to 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. vs. DMAHS and Bergen County Board of Social Services, No. A-5911-10 (App. Div. February 22, 2013).


Although State and federal law permit a relaxation of the prescribed time limits where “documented exceptional circumstances arise”, the record in this case is devoid of any documentary evidence to establish the existence of exceptional circumstances – such as documented attempts to obtain the requested information; letters from Petitioner’s representative to the CWA explaining the delay in obtaining the requested documents and requests for extensions of time to provide the information. The determination that Petitioner’s application should remain open is based solely on the testimony of Petitioner’s sons and step-son who claim that his life partner of 46 years was slow to respond. While hearsay is admissible, a finding of fact must be supported by competent evidence. 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.” Missing from the record is the documentation that supports a finding that there

was an ongoing exchange of information between the Petitioner's representative and Morris County prior to the denial as well as documentation and testimony showing a continuing and good faith effort by Petitioner's representative to obtain the needed information. Instead, the record reflects that Morris County sent notices to the address provided on the Petitioner's Medicaid application and reveals only a single exchange of information that occurred almost a month after the denial letter was issued. (P-1). Moreover, while the Petitioner's witnesses claim to have held on to Petitioner's money awaiting clarity for how to properly spend below the \$2,000 resource limit, they do not explain why this prevented them from disclosing information regarding the transactions in question. The record contains no documented exceptional circumstance warranting an extension of time beyond the 99 days the application remained open.

THEREFORE, it is on this 25th day of October 2022,

ORDERED:

That the Initial Decision is hereby REVERSED.



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