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

W.F.,	:
PETITIONER,	: **ADMINISTRATIVE ACTION**
v.	: **FINAL AGENCY DECISION**
	: **OAL DKT. NO. HMA 02310-21**
MORRIS COUNTY DEPARTMENT	:
OF FAMILY SERVICES,	:
RESPONDENTS.	:

As the Assistant Commissioner for the Division of Medical Assistance and Health Services, I have reviewed the record in this matter, consisting of the Initial Decision, the documents in evidence, and the contents of the Office of Administrative Law (OAL) case file. Respondent filed Exceptions to the Initial Decision. Procedurally, the time period for the Agency Head to file a Final Decision is February 22, 2022 in accordance with an Order of Extension. The Initial Decision was received on November 24, 2020.

This matter arises from the Morris County Department of Family Services' (Morris County) January 20, 2021 denial of Petitioner's Medicaid application for failure to provide

verifications.[1]

On or about March 23, 2019, Petitioner became a nursing facility resident.[2] On July 2, 2019, Petitioner's ex-wife was appointed the temporary guardian of his person and property. On October 1, 2019, Adam P. Dubeck, Esq. was appointed guardian of Petitioner's estate, and Petitioner's ex-wife remained the guardian of his person. On February 6, 2020, the Petitioner, through his guardian, filed an application for Medicaid benefits with Morris County. On February 13, 2020, Morris County requested that Petitioner provide verification of multiple items within eighty-three days of its notice. Over the next seven months, Morris County sent five additional requests for verification. On June 11 and September 30, 2020, Morris County specifically asked for verification of accounts *1976 and *1758 which showed recurring monthly transfers. Morris County instructed that if these were not Petitioner's accounts, he would need to provide redacted bank statements or a confirming letter from the bank holding the accounts. On January 20, 2021, Morris County denied Petitioner's Medicaid application because he failed to provide proof that he was not the owner of the accounts ending in *1976 and *1758.

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 circumstance. N.J.A.C. 10:71-2.2(e). CCBSS 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

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[1] 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). Any issue regarding whether or not Petitioner's trust conforms to State and Federal requirements is not appropriately before the court. Any findings of fact or conclusions on this issue are unsupported by any evidence or testimony.

[2] Regardless of its relevancy or irrelevancy to the contested issue, there is no evidence or testimony that the nursing facility in which Petitioner resides provided services "with the expectation and understanding that he would be deemed eligible for the Medicaid program."

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 CCBSS 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).

Here, Petitioner, through his court appointed guardian, applied for Medicaid. After 349 days of requests and communications between the parties, Morris County denied Petitioner's application for failure to provide verifications necessary to determine eligibility. With regard to the outstanding pieces of information cited in Morris County's denial letter, 112 days had passed between the County's last request and the denial. As the person who was making regular transfers to these accounts, Petitioner was in the best position to identify the account holders. Petitioner's guardian's emails referencing a landlord and transfers to an ex-wife do not sufficiently establish that Petitioner did not own the accounts in question.

Moreover, the Initial Decision assumes these are Bank of America accounts, and therefore addressed by the January 11, 2021 letter from Bank of America stating that Petitioner does not have any open accounts. Aside from the fact that there is no evidence that this letter was submitted to Morris County, nothing in the record suggests that accounts *1976 and *1758 are held by Bank of America. There is evidence, however, that Petitioner's ex-wife has personal knowledge of who owns at least one of the two accounts. (P-13). Yet she, who remains guardian of Petitioner's person, did not provide documentary evidence that he did not own the account, nor did she appear at the hearing to testify.

Furthermore, there is no explanation with regard to the $2,750 monthly transfers out

of Petitioner's Bank of America account *4463 to account *1976.[3] Contrary to the ALJ's finding, this lack of information does not make the Petitioner more appropriately subject to a penalty period than a denial. If Petitioner owns additional accounts, be they Bank of America or other, there are additional questions concerning his financial eligibility.

In summary, the Medicaid application process is governed by N.J.A.C. 10:71; not N.J.A.C. 10:87, which are the regulations pertaining to the New Jersey Supplemental Nutritional Assistance Program (NJ SNAP). CWAs must determine eligibility for Aged cases within 45 days and Blind and Disabled cases within 90 days unless exceptional circumstances highlight the need for additional time. Here, Petitioner's application remained open for 349 days, well beyond the prescribed time limits even during the COVID-19 public health emergency.[4] Nevertheless, even if Petitioner's guardian was cooperative and any delay outside his control, there is simply nothing in the record that warrants keeping the application open beyond 349 days. Accordingly, I FIND that Morris County correctly denied Petitioner's February 6, 2020 Medicaid application for failing to provide information necessary to determine eligibility.

THEREFORE, it is on this 21st day of FEBRUARY 2022,

ORDERED:

That the Initial Decision is hereby REVERSED.

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

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[3] After the April 22, 2021 hearing, in a May 3, 2021 correspondence to the ALJ, Petitioner's guardian admits that, he eventually provided documentary evidence with regard to these accounts after the denial date, but did not specifically identify when such evidence was provided to Morris County.
[4] I note that the Petitioner's guardian did not argue that an extension of time was necessary for this reason.