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

B.O.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE
AND HEALTH SERVICES AND
MONMOUTH COUNTY DIVISION
OF SOCIAL SERVICES,
RESPONDENTS.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 02522-23

As Assistant Commissioner for the Division of Medical Assistance and Health Services (DMAHS), I have reviewed the record in this case, including the OAL case file, the documents in evidence, and the Initial Decision in this matter. Neither Party filed exceptions. Procedurally, the time period for the Agency Head to render a Final Agency Decision is August 1, 2024 in accordance with an Order of Extension.

This matter arises from the Monmouth County Division of Social Services' (Monmouth County) February 9, 2023 denial of Petitioner's Medicaid application for failure to provide corroborating evidence to determine eligibility. The issue presented here is whether Petitioner provided the corroborating evidence for Monmouth County to determine 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 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 45 days and Blind and Disabled cases within 90 days. N.J.A.C. 10:71-2.3(a); MedCom No. 10-09; and 42 CFR § 435.912. 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 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).

Unless specifically excluded, all resources are considered when determining Medicaid eligibility. N.J.A.C. 10:71-4.1 (b). Real property that can be converted to cash for

the support and maintenance of an individual is included in the resource determination. Additionally, Medicaid Communication No. 87-26 (effective August 18, 1987) instructs to temporarily exclude the value of a non-liquid resource if the Medicaid applicant or recipient agrees to and cooperates with a plan of liquidation. Once the resource is liquidated, if the individual's countable resources exceed the maximum limit, the county welfare agency will terminate eligibility until the individual's resources are spent-down to the appropriate limit. Medicaid Communication 87-26 requires that an applicant agree to sell a non-liquid resource and take steps within six months.

On November 28, 2022, Petitioner through their Designated Authorized Representative (DAR), applied for Managed Long Term Services and Supports (MLTSS) with Monmouth County. (R-1). After reviewing the application, Monmouth County sent a Request for Information (RFI) asking for additional documentation including an updated marketing agreement and a fully executed, signed, dated, and witnessed liquidation agreement for Petitioner's property on January 4, 2023, with a due date of January 18, 2023. (R-2.) After reviewing the received documents, by the letter dated January 18, 2023, Monmouth County sent the second RFI for an explanation of Petitioner's property status with a due date of February 6, 2023. Petitioner submitted a completed RFI and a letter in response to the question on the property on February 6, 2023. (P-38-43.) On February 9, 2023, Monmouth County denied Petitioner's Medicaid application due to failure to provide corroborating evidence being requested at the time of the initial application and in letters dated January 4, 2023 and January 23, 2023. (R-4.)

The Administrative Law Judge (ALJ) found that Petitioner failed to demonstrate by a preponderance of the evidence that the appropriate verifications were submitted to clarify and verify the home sale as was necessary to determine eligibility and concluded

that Monmouth County's denial of Petitioner's application for MLTSS for failure to provide was appropriate. ID at 6. I agree with the ALJ's findings¹.

Here, Monmouth County was trying to find out why Petitioner's property was not sold when it had been listed for sale over a year. (R-3). Petitioner's home was not sold at the time of her application. The property was sold on April 20, 2023. Petitioner asserts that Monmouth County erred in denying their November 28, 2022 application because it failed to treat the property as an excluded resource despite the information provided on the second RFI showing that the property was pending a sale². For real property, applicants are required to make "reasonable efforts" to sell the property within six months and the liquidation plan must begin on the date of the application for Medicaid benefits. Once the resource is liquidated, if the individual's countable resources exceed the maximum limit, the county welfare agency will terminate eligibility until the individual's resources are spent-down to the appropriate limit. Petitioner's DAR failed to provide any evidence or any reason for the delays.

During the hearing, A.S., Medicaid supervisor for Monmouth County testified that on January 4, 2023, and January 23, 2023, Monmouth County requested Petitioner to submit additional documentation including a properly executed liquidation agreement, active listing agreement, and a closing statement if the property was sold. ID at 2. A.S. further testified that Petitioner's property was not sold until April 20, 2023, two and half months after the denial notice was sent out. ID at 4. A.S. denied Monmouth County ever received the updated liquidation agreement presented by Petitioner's attorney. (P-32.)

Petitioner's DAR failed to appear at the hearing. ID at 2.

¹ The ALJ also analyzed and found that Monmouth County properly determined that Petitioner's owned real estate is not an inaccessible asset, and Petitioner was over-resourced. However, the issue in the denial notice dated February 9, 2023, was a failure to provide corroborating evidence.

² The letter, P-42, is missing.

Based on the record before me, I hereby ADOPT the Initial Decision in its entirety and incorporate the same herein by reference. Petitioner owned a property that had not been placed into a liquidation agreement when they applied for Medicaid benefits. Petitioner failed to demonstrate a reasonable effort to sell their property or the actual sale of the property within the six-month time period prescribed by a plan of liquidation. Petitioner had presented no evidence that they had provided the requested information to Monmouth County at the time of the denial. Petitioner also failed to provide any proof of extraordinary circumstances as to why they did not or could not provide the requested verification.

THEREFORE, it is on this 26th day of JULY 2024,

ORDERED:

That the Initial Decision is hereby ADOPTED.



Gregory Woods, Assistant Commissioner
Division of Medical Assistance and Health Services