



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. HMA 06632-24

AGENCY DKT. NO. N/A

D.T.,

Petitioner,

v.

OCEAN COUNTY BOARD

OF SOCIAL SERVICES,

Respondent.

Michele Marrucca, Designated Authorized Representative, for petitioner (Elder Life Management)

Kaila Reilly, Human Services Specialist 3, for respondent pursuant to N.J.A.C. 1:1-5.4(a)(3)

Record Closed: July 16, 2024

Decided: July 30, 2024

BEFORE **DEAN J. BUONO**, ALJ:

STATEMENT OF THE CASE

The petitioner, D.T., appeals the denial of his application for New Jersey FamilyCare (NJFC) benefits by the respondent, the Ocean County Board of Social Services (OCBSS or County). The OCBSS denied the petitioner's application because

the agency did not receive a timely response from the petitioner to its written requests for additional documentation to support the application.

PROCEDURAL HISTORY

The petitioner reapplied for NJFC benefits on November 9, 2023. (R-1.) Thereafter, the OCBSS notified the petitioner, in writing, that the agency needed clarification on several pieces of information and transactions. On April 15, 2024, the OCBSS notified the petitioner, in writing, that his NJFC application was denied. (R-1.) The petitioner requested a fair hearing in a timely manner, and the matter was transmitted to the Office of Administrative Law (OAL), where on May 16, 2024, it was filed to be heard as a contested case. N.J.S.A. 52:14B-1 to -15; N.J.S.A. 52:14F-1 to -13. The matter was heard on July 16, 2024, via telephone hearing, and following the conclusion of testimony the record closed.

TESTIMONY AND FACTUAL DISCUSSION

Respondent OCBSS received a New Jersey FamilyCare reapplication from petitioner. The designated authorized representative (DAR) form appointed Kaitlyn Gonzalez from Elder Life Management as the DAR. A previous application dated September 26, 2023, was denied for failure to provide information required to determine eligibility. This reapplication and the initial application were specifically for Managed Long-Term Services and Supports (MLTCSS) programs. MLTCSS requires a sixty-month "look-back" period of the applicant's financial history to evaluate for any potential disposal of assets for less than fair market value, as well as to review for any potential undisclosed income or resources. This period begins on the date on which the individual initially applies for medical assistance.

Upon receiving the reapplication of November 9, 2023, the caseworker reviewed all the information provided with the reapplication, as well as the information provided with the initial application. After the review, the caseworker requested more information on December 4, 2023. That request was replied to, but additional information was still needed. On March 27, 2024, the County requested clarification and more information.

Thereafter, on April 3, 2024, the new DAR, Michele Marrucca, presented herself as the replacement DAR in the case. However, no new DAR form was provided. There were some documents presented, but not the required DAR form. D.T. passed away on March 10, 2024, but the information was not presented to the OCBSS. Therefore, the legal authority on which Kaitlyn Gonzalez was previously appointed as DAR ceased, and the agency could not communicate with anyone other than the executor of D.T.'s estate. D.T.'s application was denied on April 15, 2024, for failure to provide information required to determine eligibility in a timely manner.

On April 23, 2024, Michele Marrucca emailed the unit supervisor to inquire about why D.T.'s case was denied. The supervisor responded that Marrucca was not the DAR on the case, and therefore they could not speak with her. Thereafter, a new DAR form was presented, and Marrucca was advised that only the executor of D.T.'s estate could continue with the application process.

Petitioner argues that the original application was filed on November 9, 2023, by Kaitlyn Gonzalez (former Elder Life Management employee) and included a five-year history of Bank of America (BOA) bank account number 5235. On December 4, 2023, human services specialist Ashlyn Johnson questioned multiple transactions from BOA 5235 through the five-year look-back period. She also only asked for the November 2023 statement. (P-1.)

In a follow-up letter dated March 27, 2024 (P-2), Johnson requested the five-year history of BOA 5235 and stated, "please note if you have already provided certain documents, you do not need to provide duplicates." Petitioner, responded in a timely manner, providing all that was requested and referencing BOA 5235 history. (P-3.) Petitioner claims that because Johnson referenced a transaction from BOA 5235 in a prior letter dated December 4, 2022, it was clear that she did not need the full history that was being requested. Petitioner reviewed the file in depth and provided updated statements, as all other statements had previously been provided with the application. This was done to follow the request of Johnson and to not provide duplicates. Upon receiving the denial of the application, the petitioner was advised that the County did not

have the previously provided DAR on file. (P-4.) Petitioner was later advised that the reapplication was denied for missing statements, specifically from 2021.

It is the petitioner's position that the full BOA 5235 history was provided, and there was no way to know exactly which statements the County was not acknowledging receipt of because the request for information (RFI) dated March 27 asks for the entire five-year history, which was clearly not needed. In addition, the RFI said not to provide duplicates. Had the RFI not contained that language about duplicates, petitioner would have provided the full account history again. In fact, the March 27 letter asks for two items that were already provided and addressed. Both number two and number seven in the RFI were addressed in the December 7 letter to the County (P-5); however, petitioner alleges that they provided those items.

In a Fair Hearing Summary dated July 11, 2024, Marrucca recited, "[i]n speaking to Kaila Reilly on July 9th in an attempt to resolve this outside of a Fair Hearing, Ms. Reilly stated that the worker had clear notes on what statements were missing. When I asked why she didn't specify in the RFI vs. asking for the five years, Ms. Reilly stated that it took more time to ask for specific statements. With all due respect, I believe that the time it would have taken to request the 2021 statements would have taken much less time than all parties have and will spend on a Fair Hearing, regardless of the outcome." The petitioner contends that all material was provided, including the full BOA 5235 history. The petitioner further argues that the County's language regarding the BOA 5325 history and not providing duplicates was too vague, leading to this outcome.

LEGAL DISCUSSION

Medicaid is a federally created, state-implemented program designed, in broad terms, to ensure that people who cannot afford necessary medical care are able to obtain it. See 42 U.S.C. § 1396, et seq., Title XIX of the Social Security Act. Medicaid provides "medical assistance to the poor at the expense of the public." DeMartino v. Div. of Med. Assistance & Health Servs., 373 N.J. Super. 210, 217 (App. Div. 2004) (citing Mistrick v. Div. of Med. Assistance & Health Servs., 154 N.J. 158, 165 (1998)); Atkins v. Rivera, 477 U.S. 154, 156 (1986); 42 U.S.C. § 1396-1. Medicaid is intended to be

funding of last resort for those in need. N.J.S.A. 30:4D-2. Although a state is not required to participate in the Medicaid program, once a state elects to participate, it must comply with the Medicaid statute and federal regulations. 42 U.S.C. § 1396a. New Jersey participates in the Medicaid program pursuant to the New Jersey Medical Assistance and Health Services Act, N.J.S.A. 30:4D-1, et seq. The Division of Medical Assistance and Health Services (DMAHS) is the State agency designated, pursuant to 42 U.S.C. § 1396a(5), to administer the New Jersey Medicaid program. N.J.S.A. 30:4D-7. The petitioner is seeking Medicaid benefits under the NJFC program.

The OCBSS was responsible for establishing the petitioner's eligibility as an applicant for NJFC benefits. Among the requirements for NJFC eligibility, an applicant must be "a resident of the United States who is either a citizen or an alien who can be classified as an eligible alien." N.J.A.C. 10:71-3.2(a). The petitioner's application indicates that he is a citizen of the United States. (R-1 at § 2.) NJFC applicants must submit "documentation of citizenship or alien status" in support of their application. N.J.A.C. 10:71-3.3(f). A birth certificate is acceptable documentation of citizenship. N.J.A.C. 10:71-3.3(g)(1)(i). The OCBSS sought this documentation.

As part of the application process, an applicant must "[a]ssist the [county welfare agency (CWA)] in securing evidence that corroborates his or her statements," including information about the applicant's income and resources. N.J.A.C. 10:71-2.2(e)(2). In this regard, "[d]ocumentary sources of evidence present factual information recorded at some previous date by a disinterested party," including "certificates, legal papers, insurance policies, licenses, bills, receipts, notices of RSDI benefits, and so forth," provide important substantiating evidence to support an applicant's eligibility. N.J.A.C. 10:71-3.1(b)(1). Importantly, "[e]ligibility must be established in relation to each legal requirement to provide a valid basis for granting or denying medical assistance." N.J.A.C. 10:71-3.1(a).

In applying for NJFC benefits, both the CWA and the applicant share responsibility for the application process. N.J.A.C. 10:71-2.2. 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). Applicants must provide the CWA with the verifications requested. N.J.A.C. 10:71-2.2(e). Failure to provide the required verifications constitutes grounds for denial of the application for Medicaid benefits. D.M. v. DMAHS, HMA 06394-06, Initial Decision (April 24, 2007), adopted, Dir. (June 11, 2007), <http://njlaw.rutgers.edu/collections/oal/>; see, e.g., R.B. v. Ocean Cnty. Bd. of Soc. Servs., HMA 04473-20, Final Decision (Jan. 18, 2020), <http://njlaw.rutgers.edu/collections/oal/> (finding that the applicant's failure to provide requested information on resource accounts prior to the stated deadline for denial of benefits justified denial of Medicaid eligibility).

Here, the petitioner does not contest the OCBSS's need for the requested information, nor does the DAR have proof of the fact that the requested information was provided in the time allowed by the OCBSS to do so. In fact, the DAR was not the original DAR on the case and has no information regarding the prior DAR's interaction with the agency. D.T. does contest that the OCBSS cannot show proof that it was not provided. Petitioner argues that the RFI dated March 27 was vague and that it should have provided specifics. Furthermore, the DAR's claim that when Johnson asked for the five-year history on BOA 5235 and stated, "please note if you have already provided certain statements, you do not need to provide duplicates," was an admission that the agency already had the information and "it was clear that [the agency] did not need the full history" is preposterous.

The petitioner had a duty to submit a complete application and to assist the respondent in securing corroborating evidence to support that application. N.J.A.C. 10:71-2.2(e). The respondent followed the regulations in processing the petitioner's application and notified the petitioner, in writing, of additional information that was required to complete the petitioner's application. The OCBSS must determine NJFC eligibility for aged applicants' cases within forty-five days and blind and disabled applicants' cases within ninety days. N.J.A.C. 10:71-2.3(a); 42 C.F.R. § 435.91 (2024). Despite the OCBSS requesting additional information, neither the petitioner nor his DAR submitted the requested information within the deadlines provided for them to do so.

These prescribed time frames to process applications may be extended where 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, however, does not require the OCBSS to grant extensions of time beyond this designated time. At best, extensions are permissible. N.J.A.C. 10:71-2.3; S.D. v. DMAHS, 2013 N.J. Super. Unpub. LEXIS 393 (App. Div. Feb. 22, 2013).

I **CONCLUDE**, therefore, that the petitioner did not provide the OCBSS with complete information regarding his eligibility for NJFC benefits to permit the OCBSS to process his NJFC application within the statutory timeframe, despite multiple written requests from the OCBSS to the petitioner's DAR seeking this information.

While N.J.A.C. 10:71-2.3(c) recognizes that there may be cases where the processing of a Medicaid application cannot be completed within the normally prescribed forty-five-day deadline because reliable evidence of eligibility is still lacking at the end of the determination period, that is limited to "exceptional circumstances." DMAHS Medicaid Commc'n No. 10-09, Case Processing Time Limit Increase (Nov. 24, 2010). Here, the information being sought was available but never provided. The OCBSS continued processing the petitioner's application and gave the petitioner additional time to provide the requested documents. (R-4 at 1.) The petitioner did not provide the requested documentation within this timeline, or even ask for additional time to provide the requested documents. While the petitioner's DAR does not assert that the granting of additional time under these circumstances should be "a given," the respondent was under no obligation to further extend its timeline to give the petitioner additional time to submit this information, particularly in the absence of exceptional circumstances to justify granting an extension of time. See S.D. v. DMAHS, 2013 N.J. Super. Unpub. LEXIS 393; M.P. v. DMAHS, HMA 02043-16, Initial Decision (Oct. 3, 2017), adopted, Dir. (Dec. 22, 2017), <http://lawlibrary.rutgers.edu/oal/search.html>; E.G. v. Ocean Cnty. Bd. of Soc. Servs., HMA 03471-20, Final Decision (Dec. 21, 2020) (finding, in the absence of extraordinary circumstances warranting additional time, that failure to provide requested documentation is grounds for denial of an NJFC application); B.S. v. Monmouth Cnty. Bd. of Soc. Servs., HMA 06879-20, Final Decision (Feb. 3, 2021), <http://lawlibrary.rutgers.edu/oal/search.html>.

Neither the petitioner nor the DAR provided the requested verification documents to the OCBSS in a timely manner after receiving a written request to do so, inhibiting the County's ability to establish credible verification of all eligibility factors. N.J.A.C. 10:72-2.3(e). I **CONCLUDE** that, because the petitioner has not demonstrated that he provided all requested documentation required by the OCBSS to establish verification and determine his Medicaid eligibility by a deadline, the OCBSS's denial of his application for Medicaid for failure to provide the requested documentation in a timely manner was appropriate.

ORDER

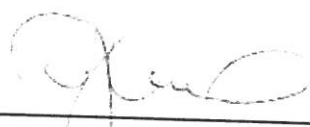
Based upon the foregoing, the determination of the OCBSS to deny the petitioner's application for NJFC benefits is hereby **AFFIRMED**.

I **FILE** this initial decision with the **ASSISTANT COMMISSIONER OF THE DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES**. This recommended decision is deemed adopted as the final agency decision under 42 U.S.C. § 1396a(e)(14)(A) and N.J.S.A. 52:14B-10(f). The **ASSISTANT COMMISSIONER OF THE DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES** cannot reject or modify this decision.

If you disagree with this decision, you have the right to seek judicial review under New Jersey Court Rule 2:2-3 by the Appellate Division, Superior Court of New Jersey, Richard J. Hughes Complex, PO Box 006, Trenton, New Jersey 08625. A request for judicial review must be made within 45 days from the date you receive this decision. If you have any questions about an appeal to the Appellate Division, you may call (609) 815-2950.

July 30, 2024

DATE



DEAN J. BUONO, ALJ

Date Received at Agency:

Date Mailed to Parties:

DJB/onl/cb

APPENDIX

WITNESSES

For petitioner

Michele Marrucca, DAR

For respondent

Kaila Reilly, Human Services Specialist 3

EXHIBITS

For petitioner

- P-1 NJ Family Care Request for Information Questionnaire, dated December 4, 2024
- P-2 NJ Family Care Request for Information Questionnaire, dated March 27, 2024
- P-3 Elder Life Management and Home Care Services letter, dated April 3, 2024
- P-4 Elder Life Management and Home Care Services letter, dated January 8, 2024
- P-5 Elder Life Management and Home Care Services letter, dated December 7, 2023

For respondent

- R-1 Fair Hearing Packet