



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. HMA 09696-24

AGENCY DKT. NO. N/A

E.C.,

Petitioner,

v.

**MONMOUTH COUNTY DIVISION OF
SOCIAL SERVICES,**

Respondent.

Miri Rothberg, for petitioner, pursuant to N.J.A.C. 1:10B-5.1

Arti Sinha, Human Services Specialist 4, for respondent, pursuant to N.J.A.C. 1:1-5.4(a)(3)

Record Closed: November 13, 2024

Decided: December 3, 2024

BEFORE **NICOLE T. MINUTOLI**, ALJ:

STATEMENT OF THE CASE

Respondent, the Monmouth County Division of Social Services (Monmouth), terminated petitioner E.C.'s Medicaid benefits effective May 31, 2023, because E.C. failed to provide requested renewal verifications. Should the denial stand? Yes. An applicant must supply timely renewal verifications to establish eligibility. N.J.A.C. 10:72-2.3(a)–(e).

PROCEDURAL HISTORY

On May 22, 2024, Monmouth terminated E.C.'s Medicaid upon renewal because he failed to provide the requested information required to determine eligibility.

On May 22, 2024, E.C. appealed the denial.

The Division of Medical Assistance and Health Services (DMAHS) transmitted the matter to the Office of Administrative Law (OAL), where it was filed on July 18, 2024, as a contested case under the Administrative Procedure Act, N.J.S.A. 52:14B-1 to -15, and the act establishing the OAL, N.J.S.A. 52:14F-1 to -13, for a hearing under the Uniform Administrative Procedure Rules, N.J.A.C. 1:1-1.1 to -21.6.

The OAL scheduled the hearing before me on September 6, 2024. At that time, the parties advised that E.C. submitted a renewal packet in August 2024, and Monmouth agreed to review the information submitted. Accordingly, I agreed to adjourn the hearing to October 25, 2024, at the parties' joint request. E.C. then requested an adjournment of the October 25, 2024, hearing. I rescheduled the hearing to November 13, 2024, at which time I held the hearing and closed the record.

FINDINGS OF FACT

Based on the testimony and my assessment of its credibility, together with the documents submitted and my evaluation of their sufficiency, I **FIND** the following as **FACT**:

The petitioner is sixty years of age and resides in a nursing facility in Middlesex County, New Jersey.

On January 22, 2024, Monmouth sent E.C. a Medicaid renewal packet under the NJ FamilyCare Aged, Blind, and Disabled (ABD) program to the attention of Sara

Kuriansky of Future Care Consultants at its Brooklyn, N.Y., address.¹ When Monmouth did not receive a response, it verified E.C.'s address on its pre-admission screening system, which showed E.C. residing at the nursing facility in Middlesex County. On April 5, 2024, Monmouth sent E.C. a second Medicaid renewal application to the nursing-facility address. Monmouth did not receive a response.

On April 25, 2024, Monmouth sent E.C. a letter stating that his eligibility was denied because he failed to provide the requested information required to determine eligibility. A courtesy copy was sent to Future Care Consultants at its Brooklyn, N.Y., address.

On May 6, 2024, Monmouth received a DAR form from Esti Sternheim (Sternheim) of Future Care Consultants but no renewal application.

On May 22, 2024, Monmouth sent Sternheim a courtesy letter stating that E.C.'s eligibility was denied because E.C. failed to provide the requested information required to determine eligibility. On the same day, Monmouth received a DAR form from Miri Rothberg (Rothberg), also of Future Care Consultants, which was attached to the fair-hearing request.

On August 14, 2024, Monmouth received E.C.'s completed renewal application.

On September 6, 2024, Monmouth agreed to re-evaluate E.C.'s case to determine his eligibility since the renewal application was submitted.² E.C. was aware that a request for information may be forthcoming.³

On September 9, 2024, based on its review of the renewal application submitted on August 14, 2024, Monmouth sent a request for information to E.C.'s current DAR, Sternheim, with a return date of September 23, 2024.

¹ As of January 22, 2024, Sara Kuriansky was E.C.'s designed authorized representative (DAR).

² The August 14, 2024, renewal packet was signed by Morty Festinger, not the registered DAR.

³ Miri Rothberg appeared as the DAR at the September 6, 2024, hearing.

On September 24, 2024, when no response was received, Monmouth notified E.C., through his DAR Sternheim, of its eligibility determination and that his Medicaid coverage was denied. Monmouth also attached a copy of the September 9, 2024, request for information. On the same day, Rothberg contacted Monmouth inquiring about a request for information and stated that she did not receive the September 9, 2024, letter. The September 9, 2024, letter was not returned to Monmouth as undeliverable. Rothberg received the September 24, 2024, letter.

Rothberg testified that she received the Medicaid renewal application on January 22, 2024, and mailed a response on February 6, 2024. Monmouth has no record of receiving Rothberg's response, which was never returned to Rothberg as undeliverable.

Rothberg further testified that she did not receive the second Medicaid renewal application mailed on April 5, 2024, or the termination letter sent on April 25, 2024. However, neither of these letters was returned to Monmouth as undeliverable.

DISCUSSION AND CONCLUSIONS OF LAW

Congress created the Medicaid program under Title XIX of the Social Security Act. 42 U.S.C. §§ 1396 to 1396w. The federal government funds the program that the states administer. Once the state joins the program, it must comply with the Medicaid statute and federal regulations. Harris v. McRae, 448 U.S. 297, 300 (1980). New Jersey participates in Medicaid through the New Jersey Medical Assistance and Health Services Act (Act), N.J.S.A. 30:4D-1 to -19.5.

The Commissioner of the Department of Human Services (DHS) promulgated regulations implementing New Jersey's Medicaid programs to explain each program's scope and procedures, including income and resource eligibility standards. See, e.g., N.J.A.C. 10:71-1.1 to -9.5 (Medicaid Only); N.J.A.C. 10:72-1.1 to -9.8 (Special Medicaid Programs); E.S. v. Div. of Med. Assistance & Health Servs., 412 N.J. Super. 340, 347 (App. Div. 2010).

The Act established the DMAHS within the DHS to perform the administrative functions concerning Medicaid program participation. Bergen Pines Cnty. Hosp. v. New Jersey Dep't of Human Servs., 96 N.J. 456, 465 (1984); see also N.J.S.A. 30:4D-4, -5.

County welfare agencies (CWA), such as Monmouth, "assist [the] DMAHS in processing applications for Medicaid and determining whether applicants have met the income and resource eligibility standards." Cleary v. Waldman, 959 F. Supp. 222, 229 (D.N.J. 1997), aff'd, 167 F.3d 801 (3d Cir.), cert. denied, 528 U.S. 870 (1999). Significantly, an applicant bears the burden of establishing eligibility for Medicaid benefits. D.M. v. Monmouth Cnty. Bd. of Soc. Servs., HMA 6394-06, Initial Decision (April 24, 2007), adopted, Dir. (June 11, 2007), <http://njlaw.rutgers.edu/collections/oal/>. The applicant is the primary source of information regarding eligibility and must cooperate with the agency in securing evidence to corroborate the information provided to support their applications. N.J.A.C. 10:72-1.4(a)(2), -2.3. Further, a CWA must seek verification of questionable information provided by an applicant. N.J.A.C. 10:72-2.3(c).

Under Medicaid Communication No. 22-04, updating Medicaid Communication No. 10-09, and 42 C.F.R. § 435.952(c)(2) (2024), if a verification results in a discrepancy, insufficient information, or an error, the CWA will send a request-for-information (RFI) letter. The RFI letter will allow the applicant fourteen days to respond. See Medicaid Communication No. 22-04. If the CWA receives no response, it will deny the application for failure to provide information under 42 C.F.R. § 435.952(c)(2) (2024).

Still, the regulations governing Medicaid recognize that there may be "exceptional cases" when an applicant cannot produce the required information timely. See, e.g., N.J.A.C. 10:71-2.3(c) (permitting extension of time to issue an eligibility determination when the applicant did not produce information due to exceptional "[c]ircumstances wholly outside the control of both the applicant and CWA"). Yet, at best, an extension is permissible, not required. Ibid.; S.D. v. Div. of Med. Assistance & Health Servs. & Bergen Cnty. Bd. of Soc. Servs., 2013 N.J. Super. Unpub. LEXIS 393 (February 22, 2013); see also J.D. v. Div. of Med. Assistance & Health Servs., HMA 03564-14, Initial Decision (June 26, 2014), <http://njlaw.rutgers.edu/collections/oal/>, adopted, Dir. (July 29, 2014), <https://www.nj.gov/humanservices/providers/rulefees/decisions/> (finding that a

guardian's difficulty obtaining requested documents due to non-cooperation from the applicant's family and financial institutions did not constitute extraordinary circumstances).

Here, E.C. argues that his application should not have been denied for failure to provide eligibility verifications because he submitted a renewal application on February 6, 2024, and he also did not receive several of the letters sent by Monmouth. In particular, E.C. claims that he did not receive: 1) the April 5, 2024, renewal application; 2) the April 25, 2024, termination letter; and 3) the September 9, 2024, request for information. However, none of these letters were returned as undeliverable. Furthermore, Monmouth never received a renewal application from E.C. until August 2024. E.C. did not present any evidence that he sent the renewal application in February 2024, nor was it returned as undeliverable. I may be convinced that the post office could misplace or lose one letter, but it is unbelievable that four letters were lost.

Additionally, even after E.C.'s Medicaid was terminated, Monmouth gave E.C. additional time to complete the renewal application after its submission in August 2024. Yet, E.C. still failed to provide the requested information.

The record establishes, and I **CONCLUDE**, that E.C. failed to timely provide the requested and necessary information to verify his eligibility for the ABD Medicaid program, and no exceptional circumstances excused his failure. Thus, because E.C. failed to provide the requested information, Monmouth properly denied E.C.'s eligibility for Medicaid benefits under 42 C.F.R. § 435.952 (2024).

Therefore, I **CONCLUDE** that E.C.'s failure to provide verifications to determine his Medicaid eligibility necessitated the termination of his Medicaid benefits, and E.C.'s appeal should be **DISMISSED**.

ORDER

Given my findings of fact and conclusions of law, I **AFFIRM** Monmouth's decision to terminate E.C.'s ABD Medicaid benefits effective May 31, 2024, for failure to provide requested verifications and hereby **DISMISS** E.C.'s appeal.

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.

December 3, 2024

DATE



NICOLE T. MINUTOLI, ALJ

Date Received at Agency:

Date Mailed to Parties:

NTM/onl

APPENDIX

Witnesses

For petitioner

Miri Rothberg

For respondent

Arti Sinha, Human Services Specialist 4

Exhibits

For petitioner

None

For respondent

- R-1 Renewal application letter, dated January 22, 2024
- R-2 Pre-Admission Inquiry
- R-3 Renewal application letter, dated April 4, 2024
- R-4 Termination letter, dated April 25, 2024
- R-5 Termination letter, dated May 22, 2024
- R-6 Facsimile cover page to Esti Sternheim, dated May 22, 2024
- R-7 Addendum to Fair Hearing packet, dated October 25, 2024
- R-8 Request for information letter, dated September 9, 2024
- R-9 Denial of eligibility letter, dated September 24, 2024