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

K.W.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE

AND HEALTH SERVICES AND

OCEAN COUNTY BOARD

OF SOCIAL SERVICES,

RESPONDENTS.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 02801-2024

As Assistant Commissioner for the Division of Medical Assistance and Health Services (DMAHS), I have reviewed the record in this case, including the Initial Decision and the Office of Administrative Law (OAL) case file. The Ocean County Board of Social Services filed exceptions in this matter. Procedurally, the time period for the Agency Head to file a Final Agency Decision is September 26, 2024, in accordance with an Order of Extension.

This matter arises from the Ocean County Board of Social Services' (Ocean County) December 27, 2023 denial of Petitioner's Medicaid application for failure to provide documentation necessary to determine eligibility. A Fair Hearing was held and New Jersey Is An Equal Opportunity Employer • Printed on Recycled Paper and Recyclable

an Initial Decision was entered on June 26, 2024, reversing Ocean County's denial of Petitioner's application.

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 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 forty-five days and Blind and Disabled cases within ninety days. N.J.A.C. 10:71-2.3(a) and 42 CFR § 435.912. The timeframe 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).

The Medicaid applicant is "the primary source of information. However, it is the responsibility of the agency to make the determination of eligibility and to use secondary sources when necessary, with the applicant's knowledge and consent." N.J.A.C. 10:71-1.6(a)(2). While the applicant has a duty to cooperate fully with the CWA, the CWA also has a duty to assist in retrieving that information.

If verification is required in accordance with the provisions of N.J.A.C. 10:71-4.1(d)(3), the CWA shall ... verify the existence or nonexistence of any cash, savings or checking accounts, time or demand deposits, stocks, bonds, notes receivable or any other financial instrument or interest. Verification shall be accomplished through contact with financial institutions, such as banks, credit unions, brokerage firms and savings and loan associations. Minimally, the CWA shall contact those financial institutions in close proximity to the residence of the applicant or the applicant's relatives and those institutions which currently provide or previously provided services to the applicant.
[N.J.A.C. 10:71-4.2(b)(3).]

In the present matter, Petitioner filed a Medicaid application on November 22, 2023. ID at 2. After reviewing the application, Ocean County sent Request for Information (RFI) letters to the Petitioner on November 22, 2023, and December 7, 2023. Ibid. The requested information was due by December 6, 2023 and December 21, 2023, respectively. Ibid. While the Petitioner did respond to the November 22, 2023 RFI on December 5, 2023, they did not respond to the December 7, 2023 RFI. Ibid. As such, on December 27, 2023, Ocean County issued a notice advising Petitioner that they were terminated due to a failure to provide information necessary to determine Medicaid eligibility in a timely manner. Ibid.

While the Petitioner did submit numerous additional documents in response to Ocean County's request, at the Fair Hearing, Ocean County testified that the following requested documentation was not provided:

- A. Verification of the owner of bank accounts that ended in 2221 and 6598;
- B. The "source of all deposits" into the joint account 6081, from August 2023;
- C. Verification of the source of deposits from Zelle to petitioner's bank account 7885 from August 2023;
- D. Venmo statements from August 2023;
- E. Verification of the person/entity to whom petitioner pays rent;

- F. Verification that a home was purchased with proceeds from the Chase Bank account ending in 6081;
- G. Copy of registration title to any vehicles; and
- H. Verification of the following transactions to and from petitioner's account (7885):
 - a. September 27, 2023, \$1,000 withdrawal to account 6081,
 - b. October 6, 2023, \$400 withdrawal to account 60814,
 - c. October 16, 2023, \$1,000 Zelle deposit,
 - d. October 16, 2023, \$820 Zelle deposit,
 - e. October 16, 2023, \$1,000 withdrawal to account 6081,
 - f. October 16, 2023, \$790 withdrawal to 6081,
 - g. October 23, 2023, \$1,000 deposit from 6081,
 - h. November 6, 2023, \$550 Zelle withdrawal, and
 - i. July 17, 2023, \$1,000 Venmo Wthdrawal.

[Id. at 6-8.]

At the Fair Hearing, the Petitioner testified that they had provided all the information they had. Id. at 8. They testified that in September of 2023 they started helping their friend, A.K., purchase a home in Manchester, New Jersey. Ibid. A.K. resided in Florida at that time, so Petitioner helped with various home purchase tasks such as the application and inspection fee. Ibid. She also purchased furniture and other items for the home. Ibid. Petitioner testified that they did not use their own money to pay for these purchases. Instead, A.K. deposited a lump sum into petitioner's account (7885). Ibid. The deposits came from the joint account (6801), which belonged to A.K., and A.K. made Petitioner an authorized user of the account for this purpose. Ibid. Petitioner maintained that they were not the owner of the account and only acted according to A.K.'s directions. Ibid. They neither withdrew nor deposited money into the account and, in a letter, the bank stated that all deposits to the account were made in Florida. Ibid. This account was closed after A.K.'s home purchase was finalized in October 2023. Ibid.

The Petitioner also provided letters from A.K. that explained the situation. Id. at 9. In a December 5, 2023, letter, A.K. wrote that she lived in Florida when she decided to purchase a home at 28A Y. Parkway, Manchester, New Jersey. She wrote, "I could not be in New Jersey to handle all the inspections and issuing of misc. checks and charges so I added my best friend [K.W.] to my [account] to transact this [sic] payments for me. Paula Jean Meth will confirm all monies deposited were done so by my [sic] from my other Chase [accounts]. At no time was this money available or owned by [Petitioner]." R-3 at 7. The Administrative Law Judge (ALJ) noted that attached to the letter was a copy of what appears to be the business card of Paula Jean Meth, assistant vice president and private client banker for Chase Bank in Manchester, New Jersey. ID at 9.

On April 22, 2024, A.K. submitted a notarized letter in which she further explained the arrangement:

1. Chase [Account] #551886081 was my account that established to purchase the property at 28A [Y.] Parkway.
2. All monies deposited into account were done by me and solely owned by me.
3. I added as an authorized user my friend [petitioner] for the sole purpose of acting as my agent to get repairs made and purchase furniture from Marketplace to enable me to have the home ready for me to live there when I arrived from Florida.
4. All Zelle, Venmo and transfers from my account to her was to enable her to make the purchases, get required inspections done. All monies for these purposes only, she did not receive any payment for her efforts on my behalf.
[P-1.]

The Petitioner testified that A.K. used Zelle to deposit money into Petitioner's account (7885). ID at 10. Petitioner used Zelle and Venmo to withdraw funds from A.K.'s account (6801) to pay for work done to A.K.'s house and for the other house-related purchases. Ibid. Items were purchased via Facebook Marketplace and Petitioner does not have receipts for them. Ibid. The joint account was closed in October, thus, no statements were available after then. Petitioner asked the bank to document this in writing; however, the bank would not do so. Ibid. Petitioner further testified that they do

not have a Venmo account, but A.K. has one. Ibid. Petitioner used Zelle to send money to people and pay for purchases and services using money from their bank account (7885). Ibid. They categorized this as an instant payment. Ibid. They also alleged to use Zelle to get cash as they would from an ATM. Ibid. They claimed to use Zelle to withdraw money from their account to pay her landlord. Ibid.

The Petitioner submitted three rent receipts dated October 1, 2023, November 1, 2023, and December 1, 2023. Ibid. Each records a cash payment of \$550. Two of the receipts record that the payments are for "[Petitioner] at 20 [W.] Court." P-2. Petitioner also produced a copy of A.K.'s Florida driver's license, which lists her address as 112 C. Street, Vero Beach, Florida, and an April 15, 2024, Manchester Township Utility Bill addressed to A.K. at 28A Y. Parkway, Manchester. P-2; P-3.

Kaila Reilly, human services specialist 3, testified for Ocean County, and acknowledged that the Denial Notice Ocean County sent the Petitioner did not specifically state what information was still missing. ID at 11. However, Reilly discussed the missing documents in detail during the Fair Hearing. Reilly testified that Ocean County needed more information to determine if the Petitioner had other sources of income. Ibid. When asked why Ocean County needed information regarding a Zelle payment from the Petitioner's bank account, Reilly explained that Ocean County has seen Zelle accounts that were linked to bank accounts. Ibid. Because there was a deposit from Petitioner's Zelle account to Petitioner's account (7885), Ocean County needed to determine if Petitioner had another bank account, or if Petitioner used Zelle to withdraw funds from their Chase Bank account. Ibid. In regard to the Venmo transactions, Reilly acknowledged that they were only withdrawals, and admitted that she did not know why information about the Venmo transactions was being sought by Ocean County. Ibid.

In the Initial Decision the ALJ found that the Petitioner was a credible witness and accepted their testimony in regard to the arrangement with A.K. and their effort in providing Ocean County with the information that was requested. The ALJ further found that while the Petitioner did not provide direct evidence that A.K. purchased her home in or about October 2023, or the amount of the purchase, the balance summary for the joint account reported that it was opened on September 18, 2023. Id. at 12. The September 18, 2023-October 16, 2023, statement for the joint account had a starting balance of \$0 and an ending balance of \$85,000.66. Ibid. The following month's statement shows that \$82,150 was withdrawn from the account on October 20, 2023. Ibid. The balance summary for the account reported that its balance was \$523.35 on December 2, 2023. Ibid. The ALJ found that taking all of these facts into consideration corroborates the Petitioner's representations that the account was used to facilitate a large purchase or transfer of money. Ibid. The Petitioner also produced a utility bill that confirmed that A.K. resided at 28A Y. Parkway, Manchester, New Jersey on April 15, 2024. Ibid.

With that said, the ALJ also noted that information found in the bank statements and the omission of certain documents was an issue. Ocean County asked for information about the owners of the accounts that ended in 2221 and 6598, which were the source of large deposits of \$50,000 and \$40,000 to the joint account 6081. Id. at 13. The Petitioner did not offer direct proof of the ownership of these accounts, but in a notarized letter, A.K. wrote, that she made all the deposits to 6081. Ibid. She added, in her unnotarized letter, that all the funds deposited to the joint account were taken from her other Chase Bank accounts. Ibid.

Ocean County also asked for an explanation for Zelle deposits of \$1,000 and \$820 to the Petitioner's account. Ibid. This information was needed to determine if Petitioner had access to another account or source of income. Id. at 14.

In consideration of the testimony and evidence, the ALJ found that Petitioner produced a significant amount of information in response to the Ocean County's request. Ibid. However, that information resulted in additional questions and the Petitioner did not produce all the information Ocean County needed to answer those questions. On the other hand, Petitioner did alert Ocean County to the bank official who could have answered outstanding questions, as the bank would not supply the Petitioner with a written explanation of the transactions at issue. Ibid. In consideration of the Petitioner's attempt to submit the requisite information, their credible explanation that the bank official was unwilling to provide that information and that they then asked Ocean County for assistance, and the absence of evidence that Ocean County sought clarification from the bank manager, the ALJ concluded that Ocean County's denial of Medicaid benefits should be reversed and Petitioner's application reopened for Ocean County to seek information from the Chase bank manager in Manchester, New Jersey, that the Petitioner was not able to obtain. Ibid.

Ocean County filed exceptions on June 27, 2024. The first exception raised was that a phone call to a bank employee will not produce any verification of Petitioner's income. Exceptions at 2. Ocean County also took exception that Petitioner did not provide any additional documentation after the Ocean County Board of Social Services sent a second request for information that was due on December 21, 2023. Ibid. According to Medicaid Communication No. 22-04, Application Processing, May 3, 2022, "For denial letters when the individual failed to provide requested information (new applicants only) no further documentation will be accepted by the Agency and the individual will be provided with information to reapply." Id. at 3. Ocean County is arguing that because this was Petitioner's first application in Ocean County, and that their

previous case was in a different county, the Petitioner should be treated like a new applicant and that no new further documentation should be considered.

Ocean County also takes exception that in Petitioner's prior application the other county did not properly notice the Petitioner of their termination for being over income, and that Ocean County did not have all the facts surrounding that case until after the fair hearing was requested. Ibid. Ocean County next took exception with the ALJ finding that notification form used to notice Petitioner of Ocean County's decision did not state the missing information. Id. at 4. Ocean County argues that the notification form used is mandated by the Division of Medical Assistance and Health Services. Ibid.

Ocean County also took exception to the ALJ's assertion that Ocean County attributed \$324.67 as support and maintenance from A.K. Id. at 5. Ocean County argues that the rent receipts they were provided were not legible, and as such K.W.'s living arrangement was not verified at the time of denial. Ibid. Legible receipts were provided in April 2024. Ocean County's last exception is to the ALJ finding that Petitioner could have used Zelle to withdraw funds from her Chase Bank account. Ibid.

I agree with the Initial Decision. The Petitioner provided substantial information to Ocean County, informed them of information they were unable to retrieve, and provided them with the contact of a bank manager who may have been able to provide the necessary information. I find that the Petitioner fulfilled their duty to cooperate fully with Ocean County, and that Ocean County must also fulfil its duty to assist in retrieving information that the Petitioner is unable to procure. Moreover, I find that contrary to Ocean County's second exception, the Petitioner was not a new applicant, and as such new information could be accepted. I find that Ocean County's exception that the other county's termination notice was not adequate and as such Ocean County did not have the details of what occurred in the other county until after the fair hearing was requested

does not mitigate the fact that the Petitioner was not a new applicant and new information can be accepted. Ocean County's fourth exception that the notification form used is mandated by the Division of Medical Assistance and Health Services is not relevant to the ALJ's determination that Ocean County should contact the Chase Bank manager to seek the information the Petitioner was unable to obtain from the bank. Ocean County's fifth exception that the rent receipts initially provided were not legible is not relevant as legible receipts were submitted in April 2024. Ocean County's last exception regarding the use of Zelle to withdraw funds may have merit. While the Petitioner could not answer the questions surrounding the Zelle transactions, Petitioner did alert Ocean County to the bank official who could have answered outstanding questions, as the bank would not supply the Petitioner with a written explanation of the transactions at issue.

Thus, based on the record before me and for the reasons enumerated above, I hereby ADOPT the Initial Decision and FIND that the reversal of Ocean County's denial of Petitioner's application was appropriate.

THEREFORE, it is on this 21st day of September, 2024,

ORDERED:

That the Initial Decision is hereby ADOPTED.



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