



PHILIP D. MURPHY
Governor

TAHESHA L. WAY
Lt. Governor

State of New Jersey
DEPARTMENT OF HUMAN SERVICES
Division of Medical Assistance and Health Services
P.O. Box 712
Trenton, NJ 08625-0712

SARAH ADELMAN
Commissioner

GREGORY WOODS
Assistant Commissioner

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

K.K.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE :
AND HEALTH SERVICES AND :
MIDDLESEX COUNTY BOARD :
OF SOCIAL SERVICES, :
RESPONDENTS. :

ADMINISTRATIVE ACTION

ORDER OF REMAND

OAL DKT. NO. HMA 11037-2023

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. Petitioner filed exceptions in this matter. Procedurally, the time period for the Agency Head to file a Final Agency Decision is July 18, 2024, in accordance with an Order of Extension.

This matter arises from the Middlesex County Board of Social Services' (Middlesex County) January 25, 2023, denial of Petitioner's Medicaid application for failure to provide documentation necessary to determine eligibility. A Fair Hearing was held and an Initial

Decision was entered on April 17, 2024, affirming Middlesex 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).

In the present matter, Petitioner filed a Medicaid application. After reviewing the application, Middlesex County sent Request for Information letters to Petitioner on November 1, 2022, December 9, 2022 and lastly on January 5, 2023, with information to be provided by January 19, 2023. ID at 1 & 5. Included in the Request for Information letter was verification of ownership of a Bank of America account ending in 1069. ID at

1. Petitioner sought the requested information from Bank of America on September 13, 2023, and Bank of America provided an Account Verification Return Notice stating "UNABLE TO LOCATE A/C XXXX-1069, PLEASE PROVIDE COMPLETE A/C #." P-1 at
2. Petitioner submitted this Notice to Middlesex County in response to the Request for Information letter dated January 5, 2023. Ibid. Middlesex County found that the Notice did not state or show ownership of the account in question. Ibid.

The Administrative Law Judge agreed with Middlesex County and found that the Notice did not show ownership of the account ending in 1069. Ibid. The Initial Decision also notes that Petitioner submitted this same Notice with the two previous applications, and it was found to be insufficient by Middlesex County and that Petitioner should have been put on notice and provided Petitioner an opportunity to seek additional information from Bank of America. Ibid.

By letter dated April 22, 2024, Petitioner filed exceptions to the Initial Decision. In summary, Petitioner takes exception to the following three issues:

1. Middlesex County ultimately approved a subsequent application without receiving verification of the subject account;
2. Since the subject account did not belong to the applicant, she had no way to verify who owned it;
3. The DAR had previously submitted the response from Bank of America but was never advised that it was insufficient.

The Administrative Law Judge is tasked with deciding whether Middlesex County properly denied Petitioner's Medicaid application, as of the date of the denial. Considering events that occurred subsequent to the denial date would be inappropriate. Therefore, considering what may have occurred with a subsequent application that Petitioner filed has no bearing on this determination. For example, part of Middlesex County's determination in this matter may have considered whether Petitioner exhausted

all efforts to verify the owner of the account. Even if, as alleged by Petitioner, it was impossible to verify the owner of the account, subsequent actions of Petitioner, after the denial date, may have satisfied Middlesex County when they reviewed the next application filed. As the Fair Hearing held by the Administrative Law Judge in this matter was appropriately focused on this application, and not events that occurred after the denial date, any future determination by Middlesex County cannot be considered.

Point two of Petitioner's exceptions raises a potentially valid issue. Middlesex County requested clarification as to the owner of the Bank of America account ending in 1069 and the response by Petitioner was deemed insufficient by Middlesex County. Assuming that the Bank of America account did not belong to Petitioner, Petitioner would likely not have access to the complete account number, which is what Bank of America needed to validate the account. The Initial Decision states that Petitioner submitted this same Bank of America letter with the two previous Medicaid applications but the record is unclear whether Petitioner made any additional efforts to identify the owner of the bank account, prior to January 25, 2023. What is also unclear from the record is if Middlesex County ever communicated to Petitioner why the Bank of America letter did not satisfy their request and/or whether Middlesex County made suggestions on how their request could be satisfied if Petitioner did not know the full account number. This information is important in analyzing whether Petitioner satisfied their burden to obtain requested verifications and if the requested verifications were in fact obtainable.

Thus, based on the record before me and for the reasons enumerated above, I hereby REVERSE the Initial Decision and REMAND the matter to OAL to clarify the above mentioned issues.

THEREFORE, it is on this 18th day of JULY, 2024,

ORDERED:

That the Initial Decision is hereby REVERSED; and

That the matter is REMANDED to OAL for testimony and findings as set forth above.

Gregory Woods

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