State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. HMA 01698-2024

L.C.,

Petitioner,

v.

MORRIS COUNTY OFFICE OF TEMPORARY ASSISTANCE,

Respondent.

Simon P. Wercberger, Esq., for petitioner (Law Office of Simon P. Wercberger, attorneys)

Maira Rogers, Paralegal Specialist, for respondent pursuant to N.J.A.C. 1:1-5.4(a)(3)

Record Closed: June 10, 2024

Decided: June 12, 2024

BEFORE **SUSANA E. GUERRERO**, ALJ:

STATEMENT OF THE CASE

Petitioner appeals the denial of Medicaid by respondent, the Morris County Office of Temporary Assistance (CWA) for failing to provide requested verifications.

PROCEDURAL HISTORY

The Division of Medical Assistance and Health Services (DMAHS) transmitted the matter to the Office of Administrative Law (OAL), where it was filed on February 7, 2024. The hearing was adjourned multiple times at the request of the petitioner. The hearing took place on June 10, 2024, and the record closed at the conclusion of the hearing.

FACTUAL DISCUSSION AND FINDINGS

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

Petitioner applied for the Aged, Blind, Disabled Medicaid program on June 15, 2023. That application was denied for failure to provide information needed to determine eligibility, and the petitioner did not contest this denial.

Petitioner filed a second application for Medicaid on October 31, 2023. In that application, he lists having an active IRA with Vanguard. Petitioner submitted his application with the assistance of Gavriel Geffen (Geffen), a designated authorized representative (DAR).

On or around November 20, 2023, the CWA sent the petitioner a Request for Information (RFI) letter (R-3). The RFI letter requests, in part, the following:

> For Vanguard IRA: Please submit statements from 6/15/18 to 10/31/23. Please provide verification and explanations for all transactions $2,000.00 and over. For deposits, verification of where it originated from . . . . For withdrawals verification where withdrawals went . . . If transfers were made to another account-documentation of owner of that account is required . . . .

The RFI letter directs L.C. to provide this information by December 4, 2023, and it states that if he does not have the information requested, to send a letter of explanation.

Geffen, the DAR at the time, reached out to Vanguard for L.C.'s records on October 25, 2023 and November 22, 2023.

On or around December 4, 2023, Geffen sent the CWA a written response to the RFI. Regarding the request for the Vanguard records, Geffen notes that the information had not yet arrived, that it should arrive "in a matter of days," and he requests an extension to be able to provide these documents.

While the CWA received documents responsive to other items requested in the RFI letter, it did not receive any documents from Vanguard by December 4, 2023. On December 6, 2023, the CWA denied L.C.'s application because he "failed to provide requested information required to determine eligibility in a timely manner. 42 CFR 435.952." (R-4.) This denial is the basis for this appeal.

The petitioner filed a third application for Medicaid on or around January 29, 2024, which was ultimately approved, with a penalty.

The CWA ultimately received from L.C. a letter from Vanguard dated May 1, 2024. The letter from Vanguard was in response to a subpoena dated March 29, 2024, and it indicates that Vanguard has no records in its possession, custody, or control for L.C. It is likely that L.C. mistakenly reported that he had an account with Vanguard when he did not.

L.C. asserts that the CWA should not have denied the second application, and that it should have given L.C. an extension to provide the Vanguard information. Rogers testified that the CWA is not legally obligated to grant an extension, and she notes that the Vanguard information was not even received until May 2024, more than five months after the CWA's deadline, and about seven months after the Medicaid application was filed.

LEGAL ANALYSIS 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.

Under the Act's authority, 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. 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 and Health Servs., 412 N.J. Super. 340, 347 (App. Div. 2010). The Act also established the Division of Medical and Health Services (DMAHS) within the DHS to perform the administrative functions concerning Medicaid program participation. Bergen Pines County Hosp. v. New Jersey Dep't of Human Serv., 96 N.J. 456, 465 (1984); see also N.J.S.A. 30:4D-4, -5.

County welfare agencies, such as respondent, assist DMAHS in processing applications for Medicaid and determining whether applicants meet 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). 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/.

N.J.A.C. 10:72-2.3(a) requires respondent to verify all eligibility factors. N.J.A.C. 10:72-4.1 sets the income limits for Medicaid for aged, blind, and disabled persons, while N.J.A.C. 10:72-4.5 requires aged, blind, and disabled persons to meet certain resource eligibility in order to be deemed eligible for Medicaid benefits. In order to determine resource or income eligibility, the CWA "shall use documentary evidence as a

primary source of verification." N.J.A.C. 10:72-2.3(b). It is the applicant's responsibility to obtain or to assist the CWA in obtaining any required documentation. Id. N.J.A.C. 10:72-2.3(e) provides that without "credible verification of all eligibility factors, eligibility for the Medicaid program may not be established."

The CWA 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 time frame may be extended when documented exceptional circumstances arise preventing the processing of application within the prescribed time limits. N.J.A.C. 10:71-2.3(c). The regulations, however, 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. An extension, therefore, may be permissible, but not required.

Here, L.C. indicated on his second Medicaid application that he had an existing Vanguard account. The CWA appropriately requested these records from Vanguard to verify L.C.'s eligibility for the Medicaid program. The CWA did not receive any Vanguard records by the December 4, 2023 deadline, and acted within its authority to deny the application two days later. While it was later discovered (about five months later) that no Vanguard records exist for L.C., at the time of the application's denial, the CWA had no reason to believe that L.C. did not actually have an account with Vanguard since L.C. himself indicated on his application that he had an account. There are also no "documented exceptional circumstances" here that would warrant an extension of the applicable time frame to determine eligibility. I **CONCLUDE** that the CWA appropriately denied petitioner's application in December 2023 for his failure to provide requested verifications, and specifically records from Vanguard. I further **CONCLUDE** that respondent's eligibility determination was properly made.

ORDER

Based on my findings of fact and conclusions of law, I **ORDER** that the petitioner's appeal is hereby **DISMISSED.**

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.

June 12, 2024
DATE

SUSANA E. GUERRERO, ALJ

Date Record Closed: June 10, 2024

Date Filed with Agency: June 12, 2024

Date Sent to Parties: June 12, 2024

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APPENDIX

WITNESSES

For Petitioner:

Shmuel Moore (DAR who replaced Geffen)

For Respondent:

Maira Rogers

EXHIBITS

For Petitioner:

P-1	Notification of Inappropriate Referral dated July 7, 2023
P-2	Fax Transmittal Sheet dated October 22, 2023
P-3	DAR Authorization
P-4 and P-5	Fax with attached DAR dated October 25, 2023
P-6 to P-8	Request for Information dated November 20, 2023
P-9	Fax to Vanguard dated November 21, 2023
P-10	Fax confirmation
P-11	Fax from Gavriel Geffen to respondent dated December 4, 2023
P-12 to P-31	Response to RFI
P-32 to P-45	Not in evidence
P-46	Fax to Vanguard dated November 21, 2023
P-47	Email from caseworker and DAR
P-48	Not in evidence
P-49	Not in evidence
P-50	Letter from Vanguard to Wercberger dated May 1, 2024

For Respondent:

R-1	First Application for Medicaid, RFI letter, denial letter
R-2	Second Application
R-3	Request for Information letter
R-4	Denial letter