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

R.B.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE

AND HEALTH SERVICES AND

ATLANTIC COUNTY

DEPARTMENT OF FAMILY

AND COMMUNITY DEVELOPMENT,

RESPONDENTS.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 10186-21

AND HMA 00272-22

(Consolidated)

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. No exceptions were filed in this

matter. Procedurally, the time period for the Agency Head to render a Final Agency Decision is May 2, 2024, in accordance with an Order of Extension.

This consolidated matter arises from the denial of Petitioner's Medicaid Only applications dated July 2, 2021 and October 1, 2021 for failure to provide information that was necessary to determine eligibility. By way of background, Petitioner submitted a total of four Medicaid applications, with the first three all being denied for Failure to Provide and the fourth approved with a penalty. This appeal pertains solely to the second and third applications. The Initial Decision affirmed the denial of Petitioner's second and third applications. Based upon my review of the record, I adopt the findings and conclusions of the Administrative Law Judge (ALJ) holding that Petitioner failed to timely comply with producing evidence to corroborate program eligibility.

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 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 45 days and Blind and Disabled cases within 90 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 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, the 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 failure to timely obtain pension verifications has been upheld as an appropriate reason for denial. G.S. v. Monmouth County Division of Social Services, HMA 10280-2020S, Final Agency Decision, April 25, 2021).

Further, pursuant to N.J.A.C. 10:71-2.2 and N.J.A.C. 10:71-3.1(b) an applicant is required to substantiate their application with corroborative evidence from pertinent sources in support of their application for eligibility. Medicaid Communication No. 20-04 extended discretionary flexibilities to Eligibility Determining Agencies (EDAs) for processing Medicaid applications during the COVID-19 emergency period. Flexibilities, extended on a case-by-case basis, permitted self-attestation of income when the EDA is unable to verify resources during the duration of the COVID-19 emergency period.

Here, on July 2, 2021 Petitioner's Designated Authorized Representative (DAR) filed the second Medicaid application on Petitioner's behalf with the Atlantic County Department of Family and Community Development (Atlantic County). (R-1, P. 2-7)¹. In response Atlantic County sent Request for Information letters (RFI) on July 7, 2021, July 12, 2021, July 23, 2021, August 10, 2021 and September 8, 2021 (R-1, P. 21-55). Specifically, Atlantic County requested that Petitioner provide the following: Documents regarding Petitioner's pensions, an explanation of deposits, and copies of checks. (R-1,

¹ The Medicaid application requires applicant to disclose all income, specifically asking about income from Pensions to which Petitioner left blank.

P. 52). Atlantic County contends that based upon a review of Petitioner's bank statements it appeared that Petitioner had three different deposits from three different pensions, SVB Architects and STCH, in the bank accounts. Accordingly, Atlantic County refined their RFI request questioning whether Petitioner was receiving one or two or three pensions. (R-1, P. 52). While Atlantic County identified that Petitioner was receiving an "Architect" pension, the County continued to question income from Petitioner's "SVB" and "STCH" pensions. Thereafter, in the August 10, 2021 RFI Atlantic County informed Petitioner "Please provide the current 2021 letter(s) for the client's pension(s) because we need more complete verification. Please make sure to include a letter from the company of which the client received the STCH pension, because this isn't the same as the other pension(s) the client is receiving...Please provide a copy of the statement for the account(s) the client's pension income(s) is being deposited into because this isn't the last verification deposit for STCH is 3/20/2020 and for SVB Groningen is 3/2/18" (R-1, P. 46-47). Petitioner's application was denied on September 24, 2021 as Petitioner failed to timely supply the requested documents necessarily for determining income eligibility. Further, Atlantic County was also unable to determine whether a Qualified Income Trust (QIT) was required and how much income was due to the nursing home in which Petitioner resided in as part of the cost share. (R-1, P.19).

Thereafter, on October 21, 2021 Petitioner's DAR filed a third Medicaid application. (R-2, P. 2-18). In seeking the foreign pension documentation, Atlantic County sent RFIs dated October 21, 2021, November 5, 2021, and November 29, 2021. In response to the November 5, 2021 RFI Petitioner supplied documents regarding the SVB pension and submitted a standalone affidavit, absent any supporting documentation, stating that one

of his foreign pensions had stopped in 2017 due to failure to provide a "life certificate." (R-2, P.32-38). However, Atlantic County determined that the affidavit failed to address concerns regarding pension entitlement, specifically whether Petitioner was entitled to a reinstatement of the pension, and only further highlighted the ambiguity regarding Petitioner's eligibility. Atlantic County sent Petitioner an itemized list of outstanding documents which again included questions regarding Petitioner's foreign pensions with a production deadline of December 9, 2021. (R-2, P. 32-38). On December 9, 2021, Petitioner faxed a submission to Atlantic County with a single document addressing one of the pensions in question, with the remanding documents largely unresponsive to the RFI. Based on the failure to adequately resolve Petitioner's pension income, Petitioner's third application was denied on December 15, 2021. (R-2, P. 39). Following the denial of the third application, a phone call took place with Atlantic County, counsel for Petitioner's DAR and the foreign pension group which ultimately resolved the questions regarding Petitioner's pensions. During this phone call it was clarified that the STCH pension was in fact part of the Architects. Nevertheless, prior to this phone call, the outstanding questions regarding Petitioner's foreign pensions were unresolved.

Petitioner contends that both the second and third Medicaid applications were erroneously denied as the legally available verifications of Petitioner's foreign pensions were diligently provided. Petitioner argues that the foreign pension documentation was exceedingly difficult to obtain and that Petitioner worked persistently with the Netherlands financial institutions and government authorities to supply the information. Further, Petitioner contends that extensive documents, including verification letters, bank statement and an affidavit were provided to Atlantic County clearly demonstrating the

source and amount of Petitioner's pension yet Atlantic County refused to accept them. Petitioner argues that Atlantic County mistakenly believed that Petitioner had three foreign pensions when Petitioner only received two, a misunderstanding which lead to repeated requests for verifications and confusion.

In the present matter the ALJ found that Atlantic County made numerous and reasonable efforts to obtain the necessary documentation and that Petitioner failed to provide adequate documentation supporting the denial of Medicaid eligibility for the second and third applications. I concur. While Petitioner did supply certain documents responsive to the request for foreign pension information, the documentation was not sufficient to resolve Petitioner's eligibility, whether a QIT was required to qualify for Medicaid, and to determine the cost share. As demonstrated through the multiple RFIs sent between July and November 2021 seeking documentation and clarity regarding Petitioner's foreign pensions, Atlantic County continued to require crucial pension documentation. Despite Atlantic County's efforts to gather the necessary information regarding Petitioner's pensions, particularly the STCH pension initially thought to be separate but later discovered to be part of the Architects pension, this information was not supplied in a timely manner. Further, given the inconsistencies with the bank statements and Petitioner's affidavit and the persistent ambiguity as to whether Petitioner was entitled to continued receipt of the SVB pension, it is not unreasonable for Atlantic County to require additional verifications as to Petitioner's income.

Accordingly, for the reasons set forth above, I hereby ADOPT the Initial Decision and FIND that Atlantic County's denial of Petitioner's applications was appropriate in this matter.

THEREFORE, it is on this 29TH day of APRIL 2024,

ORDERED:

That the Initial Decision is hereby ADOPTED.

Gregory Woods

OBO JLJ

Jennifer Langer Jacobs, Assistant Commissioner
Division of Medical Assistance and Health Services