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

R.J.,

PETITIONER,

v.

GLOUCESTER COUNTY

BOARD OF SOCIAL SERVICES

RESPONDENTS.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 03817-2023

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. 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 matter arises from the March 10, 2023 denial of Petitioner’s Medicaid application due to his failure to provide information that was necessary to determine eligibility. Based upon my review of the record, I hereby ADOPT the findings and conclusions of the Administrative Law Judge (ALJ).

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).

Here, an application for Medicaid was filed on the Petitioner's behalf with the Gloucester County Board of Social Services (Gloucester County) on February 6, 2023. On February 8, 2023, Gloucester County sent a Request for Information (RFI) to the Petitioner's designated authorized representative (DAR), requesting documentation that was required to process the Petitioner's application and determine Medicaid eligibility. (R-2, P. 21-22.) The deadline for submission of the requested documentation was noted in the RFI as February, 22, 2023. Gloucester County requested documents that the Petitioner also failed to provide in the first Medicaid application¹, including explanations

¹ The Petitioner's first Medicaid application was filed on January 10, 2023 and denied on

related to the Petitioner's Wells Fargo account (#5733), verifications for several deposits, and answers to questions surrounding a vehicle purchase. The return date for the information was February 22, 2023. On February 22, 2023, Gloucester County received a letter of representation and request for a two-week extension of the RFI deadline from the DAR's counsel, Cowart Dizzia, LLP. The return date was subsequently extended to March 8, 2023. The Petitioner's Medicaid application was denied on March 10, 2023 for failure to provide the required information, and a Fair Hearing appeal was filed by the DAR's counsel on March 23, 2023.

During the Fair Hearing, the Petitioner set forth numerous arguments, specifically: that Gloucester County committed error by failing to accept the Petitioner's self-attestation regarding his income; Gloucester County violated Petitioner's due process rights by failing to provide the requisite notice; that Gloucester County failed to assist the Petitioner in obtaining pension verifications; and that the Petitioner is entitled to a de novo hearing of the evidence present in processing his Medicaid applications. ID at 8.

First, the Petitioner argued that Gloucester County's refusal to accept their self-attestation dated January 20, 2023 was in contravention of Medicaid Communication No. 20-04 (Med-Com. 20-04) and 42 C.F.R. § 435.952 (2023). Ibid. While Med-Com. 20-04 allows for Eligibility Determining Agencies (EDAs), like Gloucester County, to accept self-attestation of income and resources during the duration of the COVID-19 emergency period, such an allowance is not mandatory and was intended for situations where a Petitioner's income and/or resources cannot be verified by normal means. Ibid. Similarly, federal regulations that allow for self-attestation of eligibility criteria, do so as an exception, not a rule, and are determined on a "case-by-case basis" for situations where "documentation does not exist at the time of application," or not "reasonably available."

January 31, 2023 for failure to provide requested information.

42 C.F.R. § 435.952 (2023). The regulation lists homelessness, domestic violence and natural disasters, as examples of when an exception for self-attestation would be warranted. Ibid. In the Initial Decision, the ALJ found that it was reasonable for Gloucester County to refuse to accept the Petitioner's self-attestation in regard to income. ID at 8.

The Petitioner also argued a due process violation had occurred because the February 8, 2023 dated RFI and the March 10, 2023 dated denial letter were sent to the Petitioner directly instead of either the DAR or the DAR's counsel. Id. at 9. In the Initial Decision, the ALJ found that there was no evidence of a deprivation of due process. No DAR form was submitted with the Petitioner's Medicaid application, and as such no DAR was noted in Gloucester County's computer system and the RFI was sent directly to the Petitioner. Ibid. However, it is clear that the DAR received the RFI because the DAR's counsel subsequently entered an appearance, submitted the DAR form and requested an extension to respond to the RFI request. Because the file was not updated with the DAR or the DAR's counsel, the denial was also sent directly to the Petitioner. It is also clear, however, that the denial letter was received by either the DAR or the DAR's counsel since a Fair Hearing appeal was filed in a timely manner on or about March 23, 2023. Ibid. As such the Petitioner did not suffer any prejudice or denial of due process.

Next, the Petitioner argued that Gloucester County had a duty to assist the Petitioner by using collateral contacts to obtain verifications/documentation that were not available to Petitioner, and failed to do so, despite the DAR requesting assistance. Id. at 10. However, in the Initial Decision, the ALJ found that financial documentation is not something Gloucester County would be able to assist in obtaining. Ibid. The responsibility to obtain financial documentation lies solely with Medicaid applicant. The information requested by Gloucester County was mainly banking information, workers'

compensation documents, and proof of removal from a lease. Ibid. Gloucester County does not have any legal authority to obtain these documents.

Finally, in regard to the Petitioner's argument that they were entitled to a De Novo Hearing, the ALJ found in the Initial Decision that this argument was without merit as the Petitioner was provided with a Fair Hearing on the denial of the Medicaid application. Id. at 11.

The Initial Decision upholds the denial and I concur. Both the CWA and the applicant have responsibilities with regard to the application process. N.J.A.C. 10:71-2.2. Gloucester County's request for information made on February 8, 2023 was clear and unambiguous. Petitioner failed to provide the requested information within the requisite time period set forth in the RFI.

Gloucester County was responsible for determining whether Petitioner's resources exceeded the resource limit to qualify for benefits. N.J.A.C. 10:71-4.1(a). Unless specifically excluded, all resources are considered when determining Medicaid eligibility. N.J.A.C. 10:71-4.1(b). The missing information regarding the Petitioner's Wells Fargo account and a vehicle purchase were germane to Petitioner's eligibility determination, and the documentation was necessary for Gloucester County to process Petitioner's application and determine if the Medicaid eligibility requirements were met. Petitioner's failure to provide the requested documentation appropriately resulted in the denial of the application. Further, and as noted by the ALJ, an extension of time in order to provide the requested information was requested by the DAR's counsel and granted by Gloucester County. No further requests for extensions were requested, and even so, no exceptional circumstances were presented in this matter that would have necessitated an extension of time to provide same, pursuant to N.J.A.C. 10:71-2.3(c).

Based upon my review of the record and for the reasons set forth in the Initial Decision, I hereby ADOPT the findings and conclusions of the ALJ and FIND that Gloucester County properly denied the Petitioner's Medicaid application in this matter. The evidence in the records shows, that at the time of the denial, Petitioner's DAR failed to provide a complete response to Gloucester County's RFI. Without that requested documentation, Gloucester County was unable to make a determination related to Petitioner's eligibility and appropriately denied Petitioner's application.

Thus, for the reasons set forth above and those contained in the Initial Decision, I hereby ADOPT the Initial Decision's conclusion that Gloucester County properly denied Petitioner's application.

THEREFORE, it is on this 26th 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