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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 05074-2023

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 May 12, 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 April 18, 2023. On April 27, 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-3, P. 19-25.) The deadline for submission of the requested documentation was noted in the RFI as May 11, 2023. Most of Gloucester County requested information was the same that the Petitioner failed to provide in the first two Medicaid applications¹, 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 Petitioner's Medicaid application was denied on May 12, 2023 for failure to provide the required information. Then, on May 19, 2023, Gloucester County received a letter from DAR's counsel representing that the Petitioner did not receive the RFI until May 16, 2023. ID at 3.

During the Fair Hearing, the Petitioner set forth numerous arguments, specifically: Gloucester County violated Petitioner's due process rights by failing to provide the requisite notice; exceptional circumstances existed that rendered the denial contrary to state and federal law; that Gloucester County committed error by failing to accept the Petitioner's self-attestation regarding his income; 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 13.

First, the Petitioner argued a due process violation had occurred because the April 27, 2023 dated RFI and the May 12, 2023 denial letter were sent to the Petitioner's DAR instead of the DAR's counsel. Ibid. In the Initial Decision, the ALJ found that there was no evidence of a deprivation of due process. Id. at 14. Janelle Thomas, regional finance coordinator for the Deptford Center, was the recorded DAR on this case. The April 27, 2023 RFI was sent to the care of Thomas. Counsel spoke to Gloucester County on April 27, 2023 and was instructed to submit a separate DAR form. However, counsel submitted a letter of representation instead. In this letter, counsel stated they represent the Deptford Center, not the DAR, and attached a copy of the November 2022 DAR form naming Thomas as DAR. Ibid. This is in contrast to the appearance counsel entered in the second application, in which they specifically state to represent Thomas in her capacity

January 31, 2023 for failure to provide requested information. Petitioner's second Medicaid application was filed on February 6, 2023, and denied on March 10, 2023.

as DAR, not the Deptford Center. The DAR also testified that even when a counsel is involved in a case, they continue to be the point of contact with Gloucester County, and that they forward any correspondence that comes in to counsel. In the Initial Decision, the ALJ found that Gloucester County appropriately sent the RFI and denial letter to the DAR, and even if it was an error, it does not rise to the level of deprivation of due-process rights under the facts of this case. Ibid.

Next, the Petitioner argued that no leeway was provided despite the existence of exceptional circumstances. Ibid. Specifically, Petitioner claimed the following as exceptional circumstances: the late receipt of the RFI; that the DAR and DAR's counsel immediately brought the late receipt to Gloucester County's attention; and the fact they requested time to provide the required documentation, but were denied. Ibid. In furtherance of this claim, the Petitioner cited follow-up documentation that was sent to Gloucester County on May 22, 2023 and May 25, 2023, and asserted that the documentation provided on these dates was responsive to the April 27, 2023 RFI. Id. at 14-15.

In the Initial Decision, the ALJ found that counsel was directly informed of the outstanding information still needed to determine the Petitioner's Medicaid eligibility on April 27, 2023, that most of the financial information that had been requested in the first two applications was still outstanding, and that counsel needed to submit a new DAR naming the law firm as the DAR, none of which occurred. Id. at 15. Despite the May 22, 2023 and May 25, 2023 submissions, documentation was still outstanding. As such, the ALJ found that no exceptional circumstances existed that would warrant the continued processing of the Petitioner's application beyond the May 11, 2023 deadline. Id.

The Petitioner also argued that Gloucester County's refusal to accept their self-attestation was in contravention of Medicaid Communication No. 20-04 (Med-Com. 20-

04) and 42 C.F.R. § 435.952 (2023). Id. 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. Id. at 15-16. 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." 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 16.

Next, the Petitioner argued that Gloucester County had a duty to assist the Petitioner by using collateral contacts to obtain verifications/documentation that was not available to Petitioner, and failed to do so, despite the DAR requesting assistance. Ibid. However, in the Initial Decision, the ALJ found that no assistance was requested in this application. Furthermore, even if assistance was requested, financial documentation is not something Gloucester County would be able to assist in obtaining anyway. 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. Gloucester County does not have any legal authority to obtain these documents. Id. at 16-17.

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 17.

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 April 27, 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 not 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).

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