

application due to Petitioner's failure to provide information that was necessary to determine eligibility. The Initial Decision denied Petitioner's motion for summary decision and granted Respondent's cross-motion for summary decision.

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).

In this matter, Petitioner's Designated Authorized Representative (DAR) filed three Medicaid applications on behalf of Petitioner. ID at 3. The first was filed on or about April 18, 2022. Ibid. During the review process of this application, Burlington County requested

a spousal waiver from DMAHS. Ibid. DMAHS informed Burlington County that additional information and verifications were necessary to approve the waiver. (P-Ex. A). This information was not provided to DMAHS. Ibid. Ultimately, this Medicaid application was denied. ID at 4. On or about November 14, 2022, the second Medicaid application was submitted. (P-Ex. B). This is the application at issue in this matter. Soon after receiving the application, Burlington County requested verifications, including a copy of Petitioner's marriage certificate, from Petitioner. (P-Ex. C). In subsequent emails, the DAR informed Burlington County that they were having difficulty obtaining the verifications. (P-Ex. C). Multiple extensions were granted by Burlington County. Ibid. On or about January 5, 2023, Burlington County denied this application for failure to provide requested information in a timely manner. (P-Ex. D). On or around March 2, 2023, a third application was submitted which was eventually approved. ID at 4.

After this matter was transmitted to the OAL, several telephone conferences were held which resulted in Petitioner filing a motion for summary decision and Burlington County filing a cross-motion for summary decision. ID at 2-3. Summary decision may be granted when the papers and discovery that have been filed show that there is no genuine issue as to any material fact challenged, and the moving party is entitled to prevail as a matter of law. N.J.A.C. 1:1-12.5(b). No evidentiary hearing need be held if there are no disputed issues of material fact. Frank v. Ivy Club, 120 N.J. 73, 98, cert. denied, 498 U.S. 1073 (1991).

In the Initial Decision, the Administrative Law Judge (ALJ) found that there were no genuine issues as to any material fact challenged and that the matter was ripe for summary decision, which is supported by both parties filing motions for summary decision. ID at 5. The ALJ then went on to analyze whether Burlington County properly denied Petitioner's

second Medicaid application.

In support of their motion, Petitioner argued that Burlington County failed to request a spousal waiver exception, for the second application, from DMAHS and failed to forward DMAHS everything supplied to them by Petitioner, therefore failing to meet its duty to assist Petitioner in processing their application. ID at 6.

In response, Burlington County argued that they did contact DMAHS regarding a spousal waiver during their review of the first application, and informed Petitioner that additional documentation was required in order for DMAHS to approve Petitioner's application, and that they never received the required documentation from Petitioner, despite requesting it in a Request for Information letter (RFI). ID at 7.

The ALJ agreed that Burlington County had a responsibility to assist Petitioner during the application process. Ibid. Burlington County forwarded to DMAHS all documentation provided to it by Petitioner, but Petitioner never provided the additional documentation required by DMAHS. ID 7-8. Burlington County attempted to locate the missing documentation and locate Petitioner's spouse, to no avail. ID at 8. Ultimately, Petitioner was able to locate the spouse during the processing of the third application, which facilitated this application being approved by Burlington County. Ibid. The ALJ made the following conclusions: Petitioner failed to prove that Burlington County acted improperly or negligently in processing Petitioner's Medicaid applications; Burlington County met its statutory obligation to assist Petitioner in getting DMAHS approval for the second Medicaid application; Petitioner failed to use its best efforts to locate Petitioner's spouse and failed to use its best efforts to obtain the documentation and verifications required by DMAHS in order to consider approving Petitioner's second application; Petitioner failed to prove any undue

hardship to Petitioner if the Medicaid application was not approved; and Petitioner failed to show that they are entitled to summary decision in their favor. ID at 9. The Initial Decision denied Petitioner's motion for summary decision and granted Burlington County's cross-motion for summary decision. ID at 10.

The federal statute, 42 U.S.C. § 1396r-5(c), provides that an "institutionalized spouse shall not be ineligible by reason of resources determined under paragraph (2) to be available for the cost of care where- ... (C) the State determines that denial of eligibility would work an undue hardship." 42 U.S.C. § 1396r-5(c)(3). DMAHS does provide for a waiver of the resource assessment in certain instances when there has been a break in the marital ties. A waiver may be granted in cases where the spouse is deceased but it cannot be verified, the couple is divorced but it cannot be verified, the spouse is uncooperative or the spouse's whereabouts are unknown. Such a waiver is not a guarantee of continuous eligibility and eligibility will be redetermined if circumstances change.

I agree with the Initial Decision's conclusion that Burlington County satisfied their obligation to assist Petitioner during the application process. During the first application process, Burlington County requested the spousal waiver from DMAHS. DMAHS informed Burlington County that they needed additional information from Petitioner in order to make a determination on the spousal waiver request. Petitioner was aware of the documentation required by DMAHS, as it was set forth in the RFI letter dated November 29, 2022. Multiple time extensions were requested by Petitioner and granted by Burlington County during the second application process. Ultimately, Petitioner failed to provide the documents necessary for Burlington County to make an eligibility determination.

Accordingly, based on the record before me and for the reasons set forth above, I

hereby ADOPT the Initial Decision in this matter.

THEREFORE, it is on this 14th day of MARCH 2025,

ORDERED:

That the Initial Decision is hereby ADOPTED.

Gregory Woods

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