



State of New Jersey

DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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MEGHAN DAVEY
Director

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

K.Z.,	:	
	:	
PETITIONER,	:	ADMINISTRATIVE ACTION
	:	
v.	:	FINAL AGENCY DECISION
	:	
DIVISION OF MEDICAL ASSISTANCE	:	OAL DKT. NO. HMA 16945-16
	:	
AND HEALTH SERVICES AND	:	
	:	
BERGEN COUNTY BOARD OF	:	
	:	
SOCIAL SERVICES,	:	
	:	
RESPONDENTS.	:	

As Director of the Division of Medical Assistance and Health Services, I have reviewed the record in this case, including the Initial Decision, the case file and the documents in evidence. Petitioner filed exceptions. Procedurally, the time period for the Agency Head to file a Final Agency Decision in this matter is July 6, 2017 in accordance with an Order of Extension. The Initial Decision was received on April 5, 2017.

This matter concerns the denial of Petitioner's August 25, 2016 application for Medicaid benefits. Yelena Perchuk, Esq., was named Petitioner's Guardian Ad Litem on July 26, 2016 and filed the Medicaid application with the Bergen County Board of Social Services (BCBSS).¹ This was Petitioner's second Medicaid application.² On August 30, 2016, BCBSS sent Petitioner a list of documents necessary to determine eligibility. The letter asks that the documents be provided within 25 days of the application date, but also notes that the application will be denied if the information is not provided within 45 days of the application date.³ Petitioner did not provide the documents requested and on October 13, 2016, BCBSS denied Petitioner's application.

The issue below was whether Petitioner timely provided the necessary verifications for BCBSS to make an eligibility determination. 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 circumstance. 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

¹ Petitioner was determined incapacitated and her son, Y.Z. appointed as her guardian on February 14, 2014. Yelena Perchuk, Esq. served as Petitioner's court appointed attorney during that proceeding.

² Petitioner was found eligible for Medicaid benefits in March 2014, but her guardian failed to provide documentation requested by BCBSS during the January 2016 redetermination. As a result, BCBSS could not confirm eligibility and Petitioner's Medicaid benefits were terminated. No appeal was taken. Petitioner's third application was approved retroactive to August 1, 2016.

³ The letter also notifies the Petitioner that a "new application will be required if all or part of the missing information is provided beyond the 45 days." See Petitioner's Exhibit J.

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); MedCom No. 10-09, and Fed. Reg. 42 CFR § 435.91. 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 regulation does not require BCBSS to 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, an extension is permissible. N.J.A.C. 10:71-2.3; S.D. vs. DMAHS and Bergen County Board of Social Services, No. A-5911-10 (App. Div. February 22, 2013).

At all times relevant to the application process, Petitioner had the assistance of counsel. At no point during the process did Petitioner, through any of her representatives, request an extension of time to submit the necessary documentation. ~~Petitioner did not provide the requested information before the~~ October 13, 2016 denial, which was 53 days from the filing of Petitioner’s Medicaid application. I am unpersuaded that the circumstances in this case merit an extension of time.

The Petitioner also claims that the ALJ incorrectly determined that she was not eligible for a spousal waiver that would allow Petitioner’s application to proceed without information regarding her husband’s assets. DMAHS does provide for a waiver of the resource assessment in certain instances when there has been a break in the marital ties and the community spouse refuses to

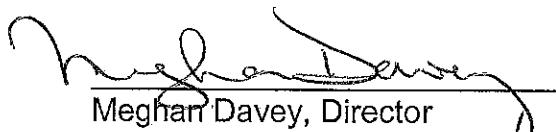
cooperate with the resource eligibility determination. Such a waiver is not a guarantee of continuous eligibility and eligibility will be re-determined if circumstances change. There is no evidence in the record to support a finding that there was a break in marital ties, or that either Petitioner or her family was not in contact with her husband. I agree with the ALJ that there is not enough in the record to support a spousal waiver.

Based on my review of the record, I concur with the ALJ's findings and hereby ADOPT the Initial Decision.

THEREFORE, it is on this 23rd day of MAY 2016

ORDERED:

That the Initial Decision is hereby ADOPTED.


Meghan Davey, Director
Division of Medical Assistance
and Health Services