



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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CAROLE JOHNSON
Commissioner

MEGHAN DAVEY
Director

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

C.P.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE

AND HEALTH SERVICES AND

MONMOUTH COUNTY BOARD OF

SOCIAL SERVICES,

RESPONDENTS.

.....

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 9085-2018

As Director of the Division of Medical Assistance and Health Services, I have reviewed the record in this matter, consisting of the Initial Decision, the documents in evidence and the contents of the OAL case file. Petitioner filed exceptions to the Initial Decision. Procedurally, the time period for the Agency Head to file a Final Decision is March 14, 2019 in accordance with an Order of Extension.

This matter concerns the May 2018 denial of Petitioner's second Medicaid application due to the failure to provide information. The first application in 2013 was

denied for failure to provide corroborating information. R-1. Petitioner applied again in January 2018 through her Designated Authorized Representative, Kathy Durney, who is identified as the Business Office Manager at the nursing home where Petitioner resides. On February 5, 2018, Monmouth County sought additional information to process the appeal including information about her assets. That letter was addressed to Petitioner at the nursing home. When nothing was forthcoming Monmouth County issued a second letter dated April 20, 2018 requesting information on her assets and certain large transactions. That letter was addressed to the nursing home with Ms. Durney's name in the second line of the address. On April 30, 2018, Petitioner sent in some documentation. On May 24, 2018 Monmouth County denied the case for failure to provide corroborating evidence but gave Petitioner 30 days to complete the request. The next submission was on June 21, 2018 but did not contain the information requested nor did it explain the transactions.

The Initial Decision upholds the denial and I concur. 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 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).

Petitioner, through counsel representing the nursing home, argued that Monmouth County was incorrect in sending the first request to her instead of Ms. Durney. Petitioner did not testify at the hearing but Ms. Durney stated that Petitioner “cooperated with her throughout the application process.” ID at 2. Ms. Durney stated that she did not receive the February 5, 2018 request and sent an email to Monmouth County on April 16, 2018 questioning the status of the application.¹ The second request sent on April 20, 2018 caused the production of some of the bank statements by April 30, 2018. R-2. Despite giving Petitioner a final deadline of June 24, 2018, neither Ms. Durney nor the facility’s counsel provided all of the missing information. At no time did anyone request additional time to provide the missing information. As the Initial Decision noted “there was no evidence or testimony regarding any limitations on the assistance [Petitioner] could provide, nor regarding the dearth of other persons related to [Petitioner] who may have assisted in compiling the necessary documentation.” ID at 6.

In exceptions Petitioner argues that the failure to address the February 5, 2018 letter to Ms. Durney prevented her from complying with the request for information and was a violation of her due process rights. Petitioner also alludes to a case where the debilitation of nursing home residents can require that the notice be sent to the authorized representative. As mentioned in the above footnote, there are issues surrounding the receipt of the February 5 letter as the nursing home’s counsel asked for the statements requested in that letter on April 5, 2018. Moreover, there is no evidence that Petitioner is debilitated. Rather Ms. Durney testified that Petitioner cooperated “throughout the application process.” ID at 6. Monmouth County gave Petitioner an extended grace period to provide the documentation after the notice of denial. Yet, neither Petitioner nor

¹ The assertion that Ms. Durney did not receive the February 5, 2018 request is questionable as counsel for the nursing facility produced an April 5, 2018 letter in its pre-hearing submission that the firm sent to the financial institution asking for statements requested by Monmouth County in the February 5th letter and stating it had been “specifically authorized[d] to obtain information related to the finances of” Petitioner. Exhibit C. The financial institution responded by letter dated April 13, 2018. Exhibit E. This correspondence predates the email sent by Ms. Durney claiming to have not received the February 5th letter and the second request dated April 20, 2018.

her representative provided evidence that the documents had been requested or that additional time beyond the grace period was needed to provide the information. The partial documents provided on June 20, 2018 by the nursing home's counsel did not contain any explanation as to the status of the other documents and no further documents were provided. R-5. I FIND that Monmouth County extended the time to provide information and Petitioner's representative failed to provide proof that additional time was warranted. 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 14th day of MARCH 2019,

ORDERED:

That the Initial Decision is hereby ADOPTED.


Meghan Davey, Director
Division of Medical Assistance
and Health Services