



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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Commissioner

JENNIFER LANGER JACOBS
Assistant Commissioner

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

J.B.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE

AND HEALTH SERVICES AND

MORRIS COUNTY BOARD OF

SOCIAL SERVICES,

RESPONDENTS.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 12460-2019

As Assistant Commissioner for the Division of Medical Assistance and Health Services, I have reviewed the record in this case, including the Initial Decision, the OAL case file and the documents filed below. Neither party filed exceptions in this matter. Procedurally, the time period for the Agency Head to render a Final Agency Decision is December 9, 2019 in accordance with N.J.S.A. 52:14B-10 which requires an Agency Head to adopt, reject, or modify the Initial Decision within 45 days of receipt. The Initial Decision was received on October 24, 2019.

The matter arises regarding the August 8, 2019 denial of Petitioner's second Medicaid application due to the failure to provide information. Specifically, Morris County found that Petitioner had failed to:

. . . provide the mandatory verifications of the current status of the M&T CD account xx4889 as well as statements starting from 10/1/15 until 4/1/19 on a quarterly basis. The client did not provide detailed explanations for the deposits that went into M&T account xx9335 on the following dates and amount of money

Date	Amount
9/14/15	\$33,427.59
12/29/17	\$10,000
2/2/18	\$5,000

The client did not verify ownership of M&T account xx6470 as well as provide statements starting from 11/1/13 until 4/1/19 on a quarterly basis. The client did not provide bank statements from M&T account xx9335 starting from 10/17/18 until 4/1/19. The client did not provide statements for the [B.] Family Trust account xx5720 starting from 8/11/18 until 4/1/19.

Both of Petitioner's applications were filed by her Designated Authorized Representative, Sherry Lewis, an employee of the nursing facility. The first application, which was denied for failure to provide information, was not appealed. The fair hearing on the second application was filed by Petitioner's son and Power of Attorney.¹ Ms. Lewis did not appear at the hearing.

The Initial Decision determined that Petitioner "substantially complied with the requests for verifications" and the "resulting delay in providing the information was beyond applicant's control" warranted reversal of the denial. ID at 7. I do not find that the facts in the record support these conclusions. Medicaid requires more than "substantial compliance" to determine eligibility. Based on the reasons below, I hereby REVERSE the Initial Decision.

¹ The Initial Decision incorrectly states the second application was filed on March 30, 2019. The application was not signed until April 30, 2019. R-1 at B.

The record shows that Morris County had been requesting information regarding the CD since March 14, 2019 when it requested the status of the account and, if the account was closed, the disposition of the funds. R-1 at A. The information was requested again on May 14, 2019 with the filing of the second application. See R-1 at C. There is no indication that the M&T Bank was contacted when those letters were received. Rather, the first time Petitioner sought information from the bank was in June 2019, some three months after the information had been requested on the second application.²

The documents faxed by M&T Bank on July 12, 2019 do not contain all information Morris County requested. The fax cover sheet identifies the documents as the account history of the CD and copies of checks. P-3. While these may be part of the requested information, that fax does not contain a detailed explanation of three deposits into an account titled in Petitioner and her son's name; verification of Petitioner's ownership of another M&T bank account; more recent statements from her checking account and statements from a Family Trust. This missing information represents potentially relevant assets which require review and therefore prevents Morris County from determining eligibility.

I FIND that the Initial Decision contains inconsistent findings that are not supported by the record. For example, the decision states Petitioner's son provided "some of the verifications requested including a copy of the current health insurance premium statement for AARP and a copy of the death certificate" and "M&T bank failed to provide some of the requested information." ID at 4 and 5. The documents requested by the son and faxed by M&T Bank on July 12, 2019 do not contain all information Morris County requested. The fax cover sheet identifies the documents as the account history of the CD and copies of

² Petitioner provided a printout of emails between Petitioner's son and Ms. Lewis. P-2. I note that the printout contains no text from Ms. Lewis in six emails originating from her account. Moreover, the emails from Petitioner's son indicate that Ms. Lewis did not relay the need for additional information with the first application. However, without testimony from Ms. Lewis and with the absence of her emailed responses, P-2 has little probative weight with regard to the steps the DAR and the son took to obtain the missing information.

checks. P-3. Petitioner was also asked to produce information regarding the Family Trust and a "detailed explanation" about the deposits that went into Petitioner's joint bank account. This was not provided. Petitioner's son stated that he continued to follow-up with M&T bank after the denial notice and received the remaining verifications on August 12, 2019. Nothing in the record supports this. Petitioner provided a copy of an email dated August 12, 2019 between M&T employees discussing two of the accounts referred to in the denial letter. There are two other M&T accounts that were requested by Morris County but not listed in that communication with the bank. By the hearing on October 8, 2019, Petitioner still had not produced all of the requested information.

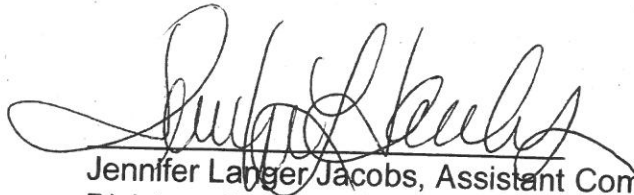
Both the County Welfare Agency (CWA) and the applicant have responsibilities with regard to the application process. N.J.A.C. 10:71-2.2. Applicants must complete any forms required by the CWA; assist the CWA in securing evidence that corroborates his or her statements; and promptly report any change affecting his or her circumstance. N.J.A.C. 10:71-2.2(e). The 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).

Nothing in this case warrants the extension of time for the production of the CD statements or other the missing information in the denial notice. Even accepting the CD statements faxed on July 12, 2019, Petitioner's application was appropriately denied for the failure to produce other information listed on the August 8, 2019 notice. The information regarding the Family Trust was not requested from M&T bank and there is no "detailed explanation" about the deposits that went into Petitioner's joint bank account. The record does not demonstrate that Petitioner complied with producing the requested information. Indeed the Initial Decision only found there had been substantial compliance to provide the information. This is insufficient to determine Medicaid eligibility and Petitioner's application was properly denied.

THEREFORE, it is on this ^{9th} day of DECMEBER 2019,

ORDERED:

That the Initial Decision is hereby REVERSED.

A handwritten signature in black ink, appearing to read "Jennifer Langer Jacobs", written in a cursive style.

Jennifer Langer Jacobs, Assistant Commissioner
Division of Medical Assistance
and Health Services