

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. 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). Applicants must provide the CWA with verification requested. N.J.A.C. 10:71-2.2 (e) provides:

As a participant in the application process, an applicant shall:

1. Complete, with assistance from the CWA if needed, any forms required by the CWA as a part of the application process;
2. Assist the CWA in securing evidence that corroborates his or her statements; and
3. Report promptly any change affecting his or her circumstances.

[Emphasis supplied].

N.J.A.C. 10:71-3.1(b) requires the applicant to substantiate her application with corroborative evidence from pertinent sources in support of her application for eligibility.

Petitioner argues that the burden of establishing Petitioner's eligibility fell upon HCBSS with Petitioner's request that it assist her in obtaining her husband's Direct Express statements. Specifically, Petitioner asserts that HCBSS should have utilized the Asset Verification System (AVS) to obtain this documentation. There is some question as to whether or not the information sought, specifically Direct Express statements, would even be available through the AVS system. Because it is not a federal requirement, not all financial institutions participate in AVS. Their participation is

entirely voluntarily, and Direct Express is currently not accessible by HCBSS. Certainly, however, Petitioner would be able to access her husband's statements and provide them to HCBSS. Nevertheless, the only indication that Petitioner attempted to obtain this information does not appear until August 24, 2018, after the matter had already been transmitted to the Office of Administrative Law (OAL).

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 Hudson County 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).

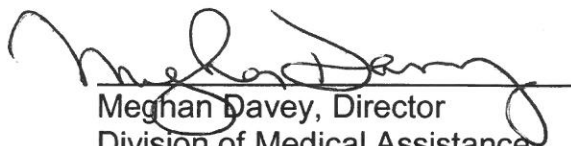
There is simply nothing in the record to demonstrate that there were exceptional circumstances warranting additional time to provide the requested verifications. HCBSS requested verifications on February 2, 2018 and again on March 16, 2018. It then held the application open beyond 90 days, until its May 4, 2018 denial letter. The record shows that Petitioner's representative did not attempt to obtain the information until after the May 4, 2018 denial letter and did not produce them until over five months later at the October 25, 2018 hearing.

The credible evidence in the record indicates that Petitioner failed to provide the needed information prior to the May 4, 2018 denial of benefits. Without this information, HCBSS was unable to complete its eligibility determination and the denial was appropriate.

THEREFORE, it is on this ^{22nd} day of JANUARY 2019,

ORDERED:

That the Initial Decision is hereby ADOPTED.


Meghan Davey, Director
Division of Medical Assistance
and Health Services