



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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Director

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

W.S.,	:	
PETITIONER,	:	ADMINISTRATIVE ACTION
v.	:	FINAL AGENCY DECISION
DIVISION OF MEDICAL ASSISTANCE :	:	OAL DKT. NO. HMA 15378-2018
AND HEALTH SERVICES AND	:	
GLOUCESTER 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 OAL case file and the documents filed below. Petitioner filed exceptions in this matter. Procedurally, the time period for the Agency Head to file a Final Decision is August 1, 2019, in accordance with an Order of Extension.

The matter arises regarding the denial of Petitioner's second Medicaid application due to the failure to provide financial documents. Petitioner filed three applications and each one was denied. He appealed the second and third application. This matter deals with the second application that was filed July 2, 2018 and denied September 30, 2018.

The third application was filed on October 31, 2018. Petitioner died in November 2018. His estate is pursuing the appeal.

Petitioner's wife filed the first application that was denied for failure to produce documents. ID at 2. The second and third applications were filed by the Medicaid coordinator at Deptford Center for Rehabilitation and Healthcare who was identified as Petitioner's Designated Authorized Representative (DAR). During the pendency of both those applications, Gloucester County sought information required to process the application from the DAR. In letters dated July 30, 2018 and September 4, 2018, information was requested regarding his wife's life insurance policies, deferred compensation account and her credit union. ID at 6. Gloucester County also asked for Petitioner's bank statements and information about a possible pension. R-1 at 21 and 60. Counsel for the nursing facility sought an extension after the July 30, 2018 letter was issued. In that letter counsel stated the nursing facility was seeking guardianship. Gloucester County denied the request for additional time and, in the September 4, 2018 letter, set a final deadline of September 14, 2018. R-1 at 61.

On September 18, 2018, counsel for the nursing facility asked for an extension of the deadline but gave no reason for missing the deadline. On September 20, 2018 the application was denied due to the failure to produce the above mentioned documents. Petitioner appealed and the Initial Decision upheld the denial. For the reasons set forth below, I hereby ADOPT the Initial 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 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 argued at the hearing that he was guaranteed 90 days to provide the requested information due to his disability. Prior to entering the nursing home, Petitioner had suffered a heart attack and “went into a coma.” ID at 2. This information was not provided to Gloucester County nor did the nursing facility follow up with the status of any guardianship proceedings. Regardless, Petitioner’s medical status is not relevant to the number of days allotted to process an application.


The program Petitioner was applying for covers aged, blind or disabled individuals. N.J.A.C. 10:71 et seq. Petitioner was sixty-seven years old at the time of application. For the purpose of Medicaid an individual is considered aged after the age of sixty-five. See N.J.A.C. 10:71-3.9 and 42 CFR § 436.520. When eligibility is not dependent on establishing disability or blindness, applications are to be processed within 45 days. When eligibility does depend on establishing disability or blindness, the county must complete an application within 90 days as it will likely take longer for individuals who must undergo a medical determination of disability before being found eligible. See N.J.A.C. 10:71-2.3; Medicaid Communication No. 10-09 and State Medicaid Manual § 3277. “42 CFR 435.911 [amended in 2012 to 42 CFR 435.912] has been amended to permit you a maximum of 90 days within which to determine eligibility when an applicant alleges disability as the categorical basis for eligibility. Because the amended regulations at §435.541 require

In exceptions, counsel for the nursing home argues that Petitioner's medical condition warrants more time and renders the assets unavailable. As explained by the ALJ, the documents requested were either under the spouse's control or Petitioner failed to demonstrate any effort to obtain them. Additionally, nothing in the record shows that Gloucester County denied the application due to available resources, which negates the argument that Petitioner's condition made the resource unavailable. Rather, counsel fails to address the testimony below that the DAR did not ask Petitioner's wife for the documentation about her own assets. Counsel cannot prevail on any argument that Petitioner's condition in any way affected his wife's ability to procure her documentation. She was competent and able to obtain her own financial records. As institutionalized spouse, Petitioner's eligibility is based on an evaluation of all of the couple's income and resources. See 42 U.S.C.A. § 1395r-5 and N.J.A.C. 10:71-4.8. Without that information, eligibility could not be established and the denial was proper.

THEREFORE, it is on this ^{30th} day of JULY 2019,

ORDERED:

That the Initial Decision is hereby ADOPTED.


Jennifer Langer Jacobs, Director
Division of Medical Assistance
and Health Services