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SHEILA Y. OLIVER Lt. Governor

DEPARTMENT OF HUMAN SERVICES DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES PO Box 712 Trenton, NJ 08625-0712

**CAROLE JOHNSON** Commissioner

JENNIFER LANGER JACOBS Director

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

H.Y. and J.Y.,

PETITIONER.

V.

**ADMINISTRATIVE ACTION** 

**FINAL AGENCY DECISION** 

OAL DKT, NO. HMA 05653-19

ATLANTIC COUNTY BOARD OF SOCIAL SERVICES.

RESPONDENTS.

As the Assistant Commissioner for 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. No exceptions were filed. Procedurally, the time period for the Agency Head to file a Final Decision is June 15, 2020 in accordance with and Order of Extension. The Initial Decision was received on March 18, 2020.

This matter arises from the Atlantic County Board of Social Services' (ACBSS) April 1, 2019 denial of Petitioner's Medicaid application for failure to provide verifications.

The issue presented here is whether Petitioner timely provided the necessary verifications for the ACBSS to make an eligibility determination. On June 14, 2018, Petitioners filed Medicaid applications with the ACBSS. On June 14, September 20 and October 31, 2018, as well as, March 4 and March 15, 2019, ACBSS requested information necessary to determine Petitioners' Medicaid eligibility. ACBSS notified the Petitioners that the information was due by March 29, 2019 or the applications would be denied. ACBSS also notified Petitioners that no further documentation would be accepted after a denial letter was issue. ACBSS did not receive the requested verifications before the March 29, 2019 deadline or the April 1, 2019 denial notice. Without this information, ACBSS was unable to complete its eligibility determination and the denial was appropriate.

Petitioners do not dispute that they failed to timely provide the verifications requested by ACBSS. Rather, Petitioners argue that exceptional circumstances warranted additional time to provide the necessary documentation. 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). ACBSS as the County Welfare Agency (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 and 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. However, 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 HCBSS 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).

The credible evidence in the record indicates that Petitioners were given several opportunities over a nine and a half month period to provide the requested information but failed to provide that information prior to the April 1, 2019 denial of benefits. Furthermore, the record is devoid of evidence of exceptional circumstances warranting additional time to provide verifications. Petitioners' assertion that they were aging and mentally incapable, although not incompetent, of assisting in the application process is unpersuasive. "To find that having a mental or physical disability, something that would be common for institutionalized individuals, is such an impediment to providing the five years of financial information would render the federal statute a nullity." (Final Agency Decision OAL DKT. HMA 5565-2014). Furthermore, although Petitioners argue that they are entitled to additional time to respond, they do not articulate an ability to provide the still outstanding information, and the application cannot be held open indefinitely.\(^1\) While there may be extraordinary circumstances that would prevent an applicant from completing this look back and permit an extension of the time limit, the facts in this case do not support such a finding.

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 day of MAY 2020,

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<sup>&</sup>lt;sup>1</sup> By letter dated November 26, 2019 (in connection with Petitioners' second Medicaid application) Cowart Dizzia submitted information previously requested by ACBSS and acknowledged that additional items remained outstanding. I note that although the Initial Decision identifies Cowart Dizzia as Petitioners' new designated authorized representative (DAR), the record does not include a copy of the DAR form nor does Cowart Dizzia hold itself out to represent the Petitioners. Rather Cowart Dizzia identifies itself as representing the facility in which the Petitioners resided at the time of the second application.

## ORDERED:

That the Initial Decision is hereby ADOPTED.

Jennifer Langer Jacobs, Assistant Commissioner

Division of Medical Assistance And Health Services