



# State of New Jersey

DEPARTMENT OF HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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JENNIFER LANGER JACOBS  
*Assistant Commissioner*

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

W.S.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE

AND HEALTH SERVICES AND

GLOUCESTER COUNTY BOARD OF

SOCIAL SERVICES,

RESPONDENTS.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 04663-2019

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. Petitioner filed exceptions in this matter. Procedurally, the time period for the Agency Head to render a Final Agency Decision is June 3, 2020 in accordance with an Order of Extension.

The matter arises regarding the denial of Petitioner's third Medicaid application due to the failure to provide information. Petitioner, through Cheryl Soistman an employee of the nursing home where he resided, filed an application on October 31, 2018. Gloucester

Petitioner's wife testified that stated that she provided some information to Soistman but testified that she never received the list of requested items. She admitted that she had access to her accounts, which was repeatedly requested in this and prior applications but "it was her belief that [Gloucester County] only needed her husband's information." ID at 6. When questioned about her husband's information she "acquiesced that once [Petitioner] went into the nursing home in December 2017, she handled all of the household/financial affairs and had access to his accounts." ID at 7.

Counsel for the nursing home, who appeared in this as well as the prior fair hearing on the second application, has a fundamental misunderstanding of the determination time frames contained in the Medicaid regulations. 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 greater coordination with the DDS [The Disability Determination Service at the Social Security Administration] where a duplicate disability application has been filed, establish procedures consistent with your administrative needs and practices to assure that a determination on the duplicate application is rendered within the maximum time limit." As

Petitioner did not require a disability determination as he was considered aged, he was not entitled to 90 days as he alleges.

Moreover, counsel's arguments at the hearing and in exceptions that Petitioner should be afforded more time due to the circumstances fail to acknowledge that Gloucester County had been asking for this financial information since at least July 2018 and Petitioner's wife acknowledged that she had access to both spouses' accounts since December 2017. R-2 at 41. The Initial Decision noted that at least five of the requested accounts were identical to the requests from Petitioner's prior application. ID at 8. Neither Petitioner's medical condition nor his death prevented his wife from accessing the information. She had full access to her own accounts which she failed to provide and admitted to having access to some, if not all, of Petitioner's accounts. ID at 8. While Petitioner's passing is tragic, it was not an impediment to retrieving the requested information either because they were her own accounts or that she had already obtained access to them in 2017.

Neither Soistman nor the other nursing facility employee, Jannell Thomas, who was subsequently authorized to act the Designated Authorized Representative (DAR) for the estate, appeared at the hearing. This is curious as Gloucester County dealt solely with them in processing the applications yet they did not participate in the fair hearing. Instead, Petitioner's wife testified at the hearing that she faxed documents to the nursing home and did not recall Soistman sharing a copy of the requested information with her. ID at 6. When she was shown the list of requested items she stated that some of the information had been provided to the nursing home. Ibid. She also testified that she knew "her financial information was required [but] she did not believe it was relevant to her husband's application and therefore did not provide the same." ID at 14 and 15.


Thus for the reasons set forth above and those contained in the Initial Decision, I agree that Gloucester County properly denied the application. Petitioner's wife clearly testified that she had access to some, if not all, of the accounts in questions including her own. Her

allegation that she had provided some of the requested information to the nursing home was not countered by the facility's own counsel. She also admitted that she did not provide her own information. Her access to the information was not hindered by Petitioner's condition or his unfortunate passing. Gloucester County had extended the time to produce information on this third application and the circumstances did not warrant another extension.

THEREFORE, it is on this 17<sup>th</sup> day of MAY 2020,

ORDERED:

That the Initial Decision is hereby ADOPTED.

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