



**State of New Jersey**

DEPARTMENT OF HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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Assistant Commissioner

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

B.C.,	:	
	:	
PETITIONER,	:	<b>ADMINISTRATIVE ACTION</b>
	:	
v.	:	<b>FINAL AGENCY DECISION</b>
	:	
DIVISION OF MEDICAL ASSISTANCE	:	<b>OAL DKT. NO. HMA 2607-2021</b>
	:	
AND HEALTH SERVICES AND	:	<b>ON REMAND HMA 4395-2020</b>
	:	
CUMBERLAND COUNTY BOARD OF	:	
	:	
SOCIAL SERVICES,	:	
	:	
RESPONDENTS.	:	

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 to the Initial Decision in this matter. Procedurally, the time period for the Agency Head to render a Final Agency Decision (FAD) is June 24, 2021 in accordance with an Order of Extension.

This matter was previously remanded to OAL for the sole purpose of obtaining the missing documents needed to complete the FAD.

The matter arises regarding the denial of Petitioner's Medicaid application filed in October 2019 due to the failure to provide information. Petitioner was residing in a nursing facility at the time of the application. She subsequently was discharged and returned home in November 2019. ID at 3. Cumberland sent a request on October 8, 2019 for information with a response due by November 1, 2019. The information requested was broken into twenty-two enumerated paragraphs. R-1f. The information requested included verifications of balance amounts, questions regarding withdrawals, recurring deposits and credits as well as an annuity established in April 2019 with \$444,974.20. ID at 4. Many of the items had been requested in conjunction with an application filed in May 2019. ID at 5.

Some of the information was provided. However, Cumberland County sent out another notice with a deadline of November 12, 2019 to provide the remaining documents. R-1g. On November 4, 2019, Cumberland County clarified one of the items should be the account balance as of October, 1, 2019 and not September 1, 2019. R-1h. Some more information was received through the November 12, 2019 deadline but since Petitioner failed to produce all of the requested information, the application was marked to be denied and was sent for supervisor review.

On December 22, 2019, while the application was under the supervisor's review, Petitioner's counsel submitted additional information about some of the bank accounts and asked for a clarification about the request regarding the annuity. R-1r. Documents continued to arrive through December 31, 2019. ID at 6. Cumberland County did

conduct a review of these submissions but determined information and documents were still outstanding. On February 20, 2020 Cumberland issued a denial listing eight areas that were still missing. R-1b. Petitioner appealed the denial.

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 circumstances. 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 42 CFR § 435.912. 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 regulations do not require that the CWA 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. v. DMAHS and Bergen County Board of Social Services, No. A-5911-10 (App. Div. February 22, 2013).

The Initial Decision upholds the denial.<sup>1</sup> The denial notice of February 20, 2020 listed eight items that remained outstanding. R-1b. The hearing concerned three of these items namely, explanations about expenditures from a TD bank account, verification for spending on checks Petitioner's spouse was writing to himself, and the verification of the face and cash value of the life insurance policy. ID at 7-8. Neither Petitioner nor her husband testified. While Petitioner provided some responses— some long after the November 12, 2019 deadline had passed – those responses failed to answer Cumberland County's requests.

The Initial Decision found that Petitioner had provided verifications on what Cumberland County thought was a life insurance policy. I do not agree that Petitioner provided sufficient information. Cumberland County asked about a recurring deposit of \$382.75 and seeking verifications on the source of the deposit. R-1f. Petitioner's response on November 7, 2019 that it was a benefit from "Aetna Life Insurance Co." is insufficient. No verification beyond that statement was provided. Moreover, despite Petitioner receiving a letter dated December 27, 2019 from Aetna to Petitioner's husband setting forth that this was a retirement benefit; that letter was not produced until the fair hearing. ID at 15. <sup>2</sup> Thus, I hereby REVERSE the Initial Decision's finding that Petitioner provided verification of this recurring deposit.

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<sup>1</sup> Petitioner's counsel also argued that Cumberland County's filing dated of October 1, 2019 was incorrect. ID at 10. The claim that counsel's request for an interview to complete the application on September 24, 2019 somehow holds the date harkens back to a practice not used since at least 2016. See Medicaid Comm. No. 16-06 which did away with face-to-face interviews. The date of the application is now the date it is received either by mail, in person or through the electronic portal.

<sup>2</sup> Petitioner failed to disclose that her husband had any income on the application so that Cumberland County would be hard pressed to make the connection that this payment from Aetna was a benefit from a former employer. R-1w.

As to the other two bases for the denial, I concur with the Initial Decision's finding that Petitioner failed to supply adequate documentation and verification regarding deposits and withdrawals. Cumberland County sought verifications and explanations of transactions ranging between \$1,000 and \$4,000. Nothing was received by the November 12<sup>th</sup> due date. On December 26, 2019 Petitioner's counsel gave a broad description how the account was used but with no specificities about the various transactions. R-1s. Counsel stated "an explanation of specific transactions of concern to the reviewer" could be provided. Despite the initial request identifying the questionable transactions as those ranging from \$1,000 to \$4,000, Petitioner failed to provide explanations of where the funds originated and how they were spent as requested. R-1f. , Petitioner's attorney was aware that there is a 45 day review period that would have ended on July 6, 2019. Moreover, Petitioner's attorney and her husband, who was also her Power of Attorney, was aware of the complexity of the multiple financial accounts prior to filing the application and were anticipating a request for additional information. ID at 6 and 17.

With regard to the questions Cumberland County asked about specific checks, the Initial Decision finds that while some of the checks were received, there was no information provided to verify, substantiate or explain how the funds were spent. As the ALJ found "Petitioner's lack of specific and total disclosure of information admittedly in their possession or available to them was the undoing of petitioner's eligibility." ID at 22. I concur with this finding and that the check images were insufficient to permit Cumberland County to make a determination regarding Petitioner's application.

I agree with Initial Decision's additional findings that Petitioner did not have "exceptional circumstances" that prevented a timely submission. I note that Cumberland County permitted additional time; albeit without a formal extension. Even with that additional time, documentation and verifications were still missing. Additionally, nothing in the record demonstrates that the circumstances warranted any further extension of time.

THEREFORE, it is on this 22<sup>nd</sup> day of JUNE 2021,

ORDERED:

That the Initial Decision is hereby ADOPTED in part and REVERSED in part as set forth above.



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