



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.K.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE :

AND HEALTH SERVICES AND :

UNION COUNTY BOARD OF :

SOCIAL SERVICES, :

RESPONDENTS. :

**ADMINISTRATIVE ACTION**

**FINAL AGENCY DECISION**

**OAL DKT. NO. HMA 8510-2019**

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. 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 is May 13, 2021 in accordance with an Order of Extension.

The matter arises regarding the May 28, 2019 denial of Petitioner's Medicaid application filed in January 2019 due to the failure to provide information. Specifically at

issue was the failure to provide information regarding a funeral trust and PNC back statements.

Petitioner applied January 29, 2019 through her son and Power of Attorney. She also had assistance on preparing and gathering information for application from a law firm. ID at 2 and 4. The application requested a copy of the funeral contract as well as information on any bank account owned or closed by the applicant within 60 months of the application date. Exhibit A. Union County requested additional information including the documents for the goods and service purchased under the funeral contract and bank statements from an unreported PNC account that was closed in 2018. On May 23, 2019, Petitioner's attorney submitted a letter in response to the May 9, 2019 request for information. The letter does not mention the funeral goods and services document or the PNC statements. No extension of time was requested. Petitioner's Brief at D. The denial letter was issued on May 28, 2019.

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 upheld the denial for failure to provide information related to the PNC account but found that the request for the burial contract goods and services was satisfied by Exhibit E. For the reasons that follow, I hereby ADOPT in part and REVERSE in part the Initial Decision.

At the outset, I cannot find evidence in the record that Petitioner provided the statement of goods and services for the burial contract. Medicaid Communication No. 18-08 discusses the methods and documentation needed to exclude assets for burial. Union County sought the burial contract that would set out the goods and services purchased by Petitioner. Petitioner provided a face sheet showing that she had a burial trust and a check for the initial funding. Exhibit E. Those documents were stamped in on May 24, 2019. However, there is no contract showing goods and services in the case record. To that end, I cannot find support for the finding that Petitioner had provided the information requested and reverse that finding.

I agree that Petitioner failed to provide documentation regarding the PNC investment statements. Petitioner's statement that her attorney was unaware that the

information was not provided to Union County is belied by the fact that it was not until June 4, 2019 that a request was sent to PNC Investments for the missing information. Petitioner's Brief at Exhibit F. Additionally, the account was not disclosed on the application despite the request that all accounts open and any closed within the last 60 months be provided.<sup>1</sup> The Initial Decision questioned the statements offered by Petitioner's attorney that he was unaware the documents had not been provided; that he was having difficulty in obtaining the information; and finally, when the documents were finally requested in June 2019, the documents were submitted within 10 days of the request. ID at 7-8. If the PNC documents had been provided, Petitioner's representatives would have been able to resubmit them with her May 2019 submission. If the PNC documents had been requested when Union County issued the missing information letter in May, they would have been submitted prior to the denial. Additionally, at no time did Petitioner represent that there were any problems with retrieving those documents. Upon receiving the May 23, 2019 submission, Union County has no reason to believe that anything more would be forthcoming and I FIND the denial to be appropriate.

Petitioner's assertion that the delay in processing the application within the 45 day time limit requires reversal of the denial is without merit. The delay by Union to process the application does not confer a finding that benefits should be awarded. As mentioned above, the application requested Petitioner provide information on all financial accounts including those closed within the last 60 months. Union County requested information on

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<sup>1</sup> It is unclear from the record if the PNC account was a checking or savings account or an investment account. The PNC Investments address on the letter requesting statements would indicate an investment account. Petitioner's Brief at Exhibit F. However, both types of financial accounts are requested to be provided on the application.

an undisclosed account that had been closed just 12 months prior to the filing of the application.<sup>2</sup>

Thus, for the reasons set forth above, I hereby ADOPT the Initial Decision with regard to the failure to provide documentation regarding the PNC account and REVERSE with regard to the failure to provide the good and services burial agreement.

THEREFORE, it is on this <sup>11th</sup> day of MAY 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

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<sup>2</sup> This information is sought on the application as individuals applying to have their nursing home costs covered by Medicaid are subject to a 60 month look back to determine if assets were transferred to obtain Medicaid benefits and avoid using those transferred assets to pay for care. N.J.A.C. 10:71-4.10 (c). While no transfer is alleged here, a review of assets owned by an applicant or spouse in the prior 60 months required by law.