



State of New Jersey

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

C.B.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE

AND HEALTH SERVICES AND

MONMOUTH COUNTY DIVISION

OF SOCIAL SERVICES,

RESPONDENTS.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 09842-2020

As Assistant Commissioner for the Division of Medical Assistance and Health Services, I have reviewed the record in this case, including the Initial Decision and the Office of Administrative Law (OAL) case file. No exceptions were filed in this matter. Procedurally, the time period for the Agency Head to render a Final Agency Decision is August 23, 2021 in accordance with an Order of Extension.

This matter arises from the denial of Petitioner's Medicaid application due to her failure to provide information that was necessary to determine eligibility. Based upon my review of the record, I hereby ADOPT the findings and conclusions of the Administrative Law Judge (ALJ).

On March 2, 2020, Petitioner, with the help of her Designated Authorized Representative (DAR), Paige Rosenberg of JB Elder Planning, submitted a Medicaid application to the Monmouth County Division of Social Services (MCDSS). R-1. Petitioner's application provided that she was married; however, her husband was not seeking benefits and was residing in the community while Petitioner was residing at a long-term care facility. Ibid. Petitioner's application additionally listed assets in the form of a checking and savings account at TD Bank, a retirement account, which was closed in 2016, ownership of two whole life insurance policies with a cash value of \$8,900.80 and \$4,999.08, respectively, and ownership of a timeshare that was jointly owned by Petitioner and her husband. Ibid. However, the application did not list the specific unit number in the address for the property, the weeks owned, or a fair market value of the property. Ibid.

On April 8, 2020, MCDSS sent a letter that requested verifications of various information, including bank statements, specific financial transactions, a signed liquidation agreement for the timeshare, and the copy of the contract for sale (marketing agreement) for the timeshare, which was due by May 1, 2020. R-2. MCDSS provided that on April 23, 2020, it received partial verification from Petitioner's DAR; however not all requested financial transactions were verified, and while a copy of the liquidation agreement for the timeshare was provided, the marketing agreement was not provided. See MCDSS's "Chronological Summary of Events" and R-3.

On August 24, 2020, MCDSS sent a second letter requesting the verifications that were still missing, including bank statements, specific financial transactions, and once again, the marketing agreement for the timeshare. Ibid. The requested verifications were due by September 3, 2020. Ibid. On August 31, 2020, the DAR submitted some of the requested information to MCDSS, including some updated financial account statements, verification of certain financial transactions, as well as a the signed liquidation agreement and a copy of an internet listing of for the timeshare. P-2. The internet listing that was provide showed that

an identified unit with one bedroom and one bathroom at a specified resort was for sale in the amount of \$7,000. Ibid. The listing also provided that the property was available for two weeks during the year. Ibid. Although the marketing agreement was requested in both the April 8, 2020 and August 24, 2020 verification letters, Petitioner's DAR failed to provide same to MCDSS and as noted by the ALJ, the DAR's August 31, 2020 letter did not request any additional time to submit the marketing agreement to MCDSS. Ibid.

MCDSS denied Petitioner's application through a letter dated September 25, 2020 for "fail[ing] to supply corroborating evidence necessary to determine eligibility, as requested in letters dated 4/8/2020 and 8/24/2020." R-4. On October 19, 2020, Petitioner submitted a new Medicaid application with the help of her DAR, which included additional information regarding Petitioner's timeshare, including a copy of the sale listing, which showed additional information, such as the specific weeks owned and the physical location of the property. ID at 4. Petitioner's October 2020 application was approved with an effective date of October 1, 2020 with retroactive benefits to July 1, 2020. Ibid. At the hearing in this matter, Petitioner submitted additional documentation showing that as of February 24, 2021, the timeshare property was still listed for sale in the amount of \$20,000. P-1.

The Initial Decision upholds the denial and I concur. 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) 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, the 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).

As noted by the ALJ, MCDSS was responsible for determining whether Petitioner's resources exceeded the resource limit to qualify for benefits. N.J.A.C. 10:71-4.1(a). Unless specifically excluded, all resources are considered when determining Medicaid eligibility. N.J.A.C. 10:71-4.1(b). Real property that can be converted to cash for the support and maintenance of an individual is included in the resource determination. However, Medicaid Communication No. 87-26 (effective August 18, 1987) permits CWAs to temporarily exclude the value of a non-liquid resource if the Medicaid applicant or recipient agrees to and cooperates with a plan of liquidation. This would allow the asset to be excluded from the determination for the period specified in the plan of liquidation or until the liquidation occurs as long as the applicant cooperates with the plan's conditions.

While Petitioner indicated on her application that she owned a timeshare with her husband, she failed to provide any additional details regarding the property in order for MCDSS to determine its value. As a result, MCDSS sought additional details of this asset through its April 8, 2020 and August 24, 2020 verification letters by requesting the signed liquidation agreement as well as the marketing agreement for the sale of the timeshare. However, while the liquidation agreement was provided, the marketing agreement was not provided by the deadlines set forth in either letter. Although an internet listing was provided by Petitioner to MCDSS in August 2020 that showed that an unidentified unit was for sale,

the listing failed to set forth any details related to the specific timeshare owned by Petitioner and her husband, such as its unit number and address, that would have allowed MCDSS to determine the value of the specific property that they owned and whether Petitioner was making reasonable efforts to sell the timeshare in order to exclude its value from Petitioner's resource calculation. See Medicaid Communication No. 87-26. The internet listing that was provided was not a credible source as to the value of the timeshare, especially considering that the internet listing specified that the timeshare was for sale in the amount of \$7,000 and at the hearing in this matter, the documentation provided shows that the timeshare is now listed for \$20,000. As the value of the timeshare and Petitioner's efforts to sell the timeshare were germane to Petitioner's eligibility determination, the marketing agreement was necessary for MCDSS to process Petitioner's application and to assess the fair market value of the asset. Petitioner's failure to provide the requested documentation regarding her assets appropriately resulted in the denial of her application. Further, and as noted by the ALJ, no extension of time was requested by Petitioner or her DAR in order to provide the requested marketing agreement, and even so, no exceptional circumstances were presented in this matter that would have necessitated an extension of time to provide same, pursuant to N.J.A.C. 10:71-2.3(c).

Thus, for the reasons set forth above and those contained in the Initial Decision, I hereby ADOPT the Initial Decision's conclusion that MCDSS properly denied Petitioner's application.

THEREFORE, it is on this 17th day of AUGUST 2021,

ORDERED:

That the Initial Decision is hereby ADOPTED.



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