

Services' (Morris County) May 18, 2021 denial of Petitioner's second Medicaid application for failure to provide verifications. Specifically, Petitioner failed to submit a marriage certificate, his spouses' date of birth and full social security number, his spouse's last known location and his spouse's resources. Petitioner contends that while he remained married, he has been estranged from his wife since 1986 and is unable to provide the information requested.

On December 15, 2020, Danielle Laczko of Genesis Healthcare filed a Medicaid application with Morris County on Petitioner's behalf. This was Petitioner's second application. Unlike the Petitioner's previous application, it identified the Petitioner as "separated." The first application, which did not indicate Petitioner's marital status, was denied for failure to provide verifications including a copy of his marriage certificate and verification of his spouse's information. Consequently, this information was still outstanding at the time of the December 2020 application. As a result, on January 5, January 28 and February 4, 2021, Morris County requested that Petitioner provide a marriage certificate and his spouse's social security number, birthday and last known location.

On December 23, 2020, shortly after Petitioner's representative filed his Medicaid application, Stotler Hayes submitted an entry of appearance with Morris County.¹ The letter states that Petitioner had been estranged from his wife for more than five years and claims that efforts to locate and identify her contact information have been unsuccessful. No evidence of these efforts were attached to the letter or provided at the hearing. Instead, the letter requests that Morris County assist Petitioner in identifying his estranged wife's contact information.

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

¹ The letter from Charlotte Mastoridis states that the firm is assisting the facility in which Petitioner resides, not Petitioner himself. The Designation of Authorized Representative Form (DAR) referenced in the letter is not part of the record.

statements; and promptly report any change affecting his or her circumstance. N.J.A.C. 10:71-2.2(e). Morris County, 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.

Beginning with Petitioner's first application in 2019, Morris County requested that the Petitioner provide a copy of his marriage certificate. This certificate would have included his now estranged wife's birthdate and maiden name, neither of which Petitioner could provide on his own and both of which could have helped to locate her. Petitioner, not the county, was in the best position to obtain this document. With nothing more than her married name, it is unclear what Morris County could have done to help locate Petitioner's estranged wife. Accordingly, on March 9, 2021, Morris County Case Manager Corinne Gelatt filed a Spousal Waiver Request Form citing the reason for the request as the inability to locate Petitioner's spouse.

The federal statute, 42 U.S.C. § 1396r-5(c)(1)(A), provides that an "institutionalized spouse shall not be ineligible by reason of resources determined under paragraph (2) to be available for the cost of care where- . . . (C) the State determines that denial of eligibility would work an undue hardship." 42 U.S.C. § 1396r-5(c)(3). DMAHS does provide for a waiver of the resource assessment in certain instances when there has been a break in the marital ties. A waiver may be granted in cases where the spouse is deceased but it cannot be verified, the couple is divorced but it cannot be verified, the spouse is uncooperative or the spouse's whereabouts are unknown. Such a waiver is not a guarantee of continuous eligibility and eligibility will be redetermined if circumstances change.

In support of the waiver, Petitioner provided three affidavits, including that of his and his estranged wife's daughter, affirming that the couple had been separated for more than twenty years and assigned any right to support from his community spouse to the State. Furthermore, nothing in the record suggests that Petitioner and his estranged wife had any combined resources, income or assets. Therefore, based on the unique facts and circumstances of this case, I agree with the ALJ that Morris County should have granted the spousal waiver and that Petitioner's December 15, 2020 application should be reconsidered in light of the same.

THEREFORE, it is on this ^{18th} day of NOVEMBER 2021,

ORDERED:

That the Initial Decision is hereby ADOPTED.



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