



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

E.G.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE

AND HEALTH SERVICES AND

CAMDEN COUNTY BOARD OF

SOCIAL SERVICES,

RESPONDENTS.



ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 6796-2020

As Assistant Commissioner for the Division of Medical Assistance and Health Services, I have reviewed the record in this case, including the Initial Decision, 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 February 18, 2021 in accordance with a second Order of Extension.

The matter arises regarding the March 2020 denial of Petitioner's Medicaid application filed on April 26, 2019 due to the failure to provide information. Specifically at issue was the source of a \$4,000 deposit to Petitioner's bank account in January 13, 2016. To explain this Petitioner provided a copy of the deposit slip for that amount and a ledger for a facility where her late husband had resided. The last entry in the ledger states that a check dated November 19, 2015 was paid to the estate of [Petitioner's husband] in the amount of \$4,098.77. J-3. Petitioner attorney alleged the "[d]eposit of \$4,000 on January 13, 2016 was a refund from [an assisted living facility] from [Petitioner's] deceased husbands' stay there". J-2. The two documents do not contain the same transaction amounts and are separated by 55 days. Camden County denied the application for failure to provide information regarding the \$4,000 deposit.

At the outset, I concur with the Initial Decision's finding that Petitioner's argument that her application should be construed under Medicaid Communication No. 20-04 is misplaced. The two sections she points to do not apply to her. She claims that her application cannot be denied during the COVID-19 pandemic. There is nothing to support this. The provision she points to deals with the termination of Medicaid benefits not the granting of benefits.

However, I do not find support in the record that the denial should be reversed. Specifically, the Initial Decision found that Petitioner failed to submit the appropriate verification for the \$4,000 deposit and "failed to inform [Camden] that the client had deducted \$98.77 from the rent refund check which reduced the check to \$4,000." ID at 10. Yet, the Initial Decision went on to find that "the \$4,000 was from the rent refund check issued by the residential facility." ID at 10. It is unclear how Camden could have

discerned the rent refund as the source of the deposit from the documents presented with the application. Petitioner's submissions failed to explain on how the ledger showing a check for \$4,098.77 was issued to Petitioner's late husband's estate and the \$4,000 deposit slip were related especially when they contained different amounts. Additionally, the dates on the transactions were separated by 55 days with no explanation.

The Initial Decision found that it was "not unreasonable" for Petitioner to deposit "a check two months after it is issued" given the intervening holidays. ID at 13. I disagree. As there was no testimony from Petitioner or her power of attorney (POA) about the reason for the 55 days, this conclusion is speculation and is belied by the January bank statement showing transactions were being conducted prior to January 16th deposit including deposit on January 7, 2016. R-1 at 39. Additionally, at the hearing, it was developed that since the check was made out to the estate, it was deposited in an undisclosed estate account and not deposited into Petitioner's account. See ID at 7 and 8.

Rather the testimony from the law firm's Medicaid specialist was that she had been told that Petitioner's POA had "deposited the rent refund check but kept out \$98.77 in cash." ID at 5. However, this was not relayed to Camden County. ID at 7. It also does not appear to be the full story of the refund check. The specialist testified she thought the check was written to Petitioner despite the ledger reflecting the check had been written to estate of her husband. Moreover, the specialist "did not think there was an estate account." ID at 7. In fact, there was an estate account ending in 2796 that was disclosed in conjunction with the second application. As the surviving spouse and heir either by will or elective share, the existence of the estate account was pertinent to the eligibility

determination and needed to be reviewed. By continuing to produce two financial transactions made fifty-five days apart and containing two different sums without any exposition, Petitioner failed to explain the correlation between the ledger, the deposit into the undisclosed estate account and the final January deposit into Petitioner's account the deposit and the intervening

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 circumstance. 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 Fed. Reg. 42 CFR § 435.91. 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).

While the delay in processing should not be condoned, Petitioner was not without remedy. The failure to act on an application "with reasonable promptness" can form the basis of a fair hearing. N.J.A.C. 10:49-10.3 (c). Camden County's delay in processing


this application was appealable and would cause them to answer why the application had not be processed.

The Initial Decision found that Petitioner had not provided appropriate verification for the \$4,000 deposit. ID at 10. There are then contrary conclusions that Camden's determination that the documents are unacceptable due to the 55 day difference between the check being issued to her husband's estate and the \$4,000 is unreasonable. ID at 13. That conclusion fails to account that there is no direct thread between the issuance of the check and the \$4,000 deposit. It was not until June 2020 that Petitioner's counsel disclosed that there was an estate account that was the source of the January 2016 deposit. ID at 8. This intervening deposit into the estate account was neither disclosed nor explained by Petitioner's representatives despite the request in the January 16 and March 11, 2020 letter that "[a]ny transaction such as check/deposits/withdrawals and transfer of \$2,000 and over need to be explained and have supporting documentation such as. . .corresponding bank statement." ID at 11-12. Petitioner was less than helpful in explaining the circumstances surrounding the deposit and the explanation that the \$4,098.77 refund check was the source of deposit turned out to be false. No extension of time was needed since Petitioner's representatives were aware how the January deposit into Petitioner's account was from an undisclosed estate bank account and that her POA had advised that she retained part of the refund check that resulted in the two different transactional amounts. It was the failure to explain the entire story as well as provide the estate account statements that resulted in the denial. As such, I REVERSE the Initial Decision and uphold the denial.

THEREFORE, it is on this 16th day of FEBRUARY 2021,

ORDERED:

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



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