



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**

F.H.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE

AND HEALTH SERVICES AND

ATLANTIC COUNTY BOARD OF

SOCIAL SERVICES,

RESPONDENTS.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 9641-2020

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. Both parties filed exceptions to the Initial Decision in this matter. Procedurally, the time period for the Agency Head to render a Final Agency Decision is June 14, 2021 in accordance with an Order of Extension.

The matter arises regarding the January 2020 denial of Petitioner's Medicaid application filed in June 2019 due to the failure to provide information. Petitioner received

three letters requesting information to process the application and had a Designated Authorized Representative (DAR), Jannell Thomas who was employed by the nursing facility where Petitioner resides and has "extensive experience" regarding Medicaid applications and how eligibility is determined. ID at 6.

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). However, 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 regulation does not require Atlantic County to 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. vs. DMAHS and Bergen County Board of Social Services, No. A-5911-10 (App. Div. February 22, 2013).

The Initial Decision upholds the denial and I agree. Atlantic County requested the check images from Petitioner's open or closed accounts in four separate letters. In three of the letters the request was made on a separate bulleted line. On March 10, 2020, Atlantic County asked for "[a]ny open/close accounts statements with check images from 2/2015 –current." R-1(c). The misdated letter of January 28, 2020, requested "[a]ll open/closed accounts statements from 02/2015-current. Please also include check and deposit images (including images of deposited check) \$1000 and over." R-1 (d). On July 28, 2020 there is another request for "[a]ll check and deposit images (including deposited checks) over \$1,000." R-1(e). In the penultimate letter dated August 14, 2020, Atlantic County's notice requested "Bank Statements: Accounts ending 3645, 4352, and 3055. All check and deposit images (including images of deposited checks over \$1,000)." R-1 (f). When the images were not produced by the August 26, 2020 deadline, Atlantic County issued a denial letter dated August 27, 2020 pointing to failure to provide documentation requested in the July 28, 2020 and August 14, 2020 notices.

The hearing elicited testimony from Barbara Paugh, the Long Term Medicaid Unit Supervisor for Atlantic County as well as Thomas. The Initial Decision sets forth a summary of each witness's testimony. The pertinent testimony in which Thomas admits she did not provide the check or deposit images as requested by Atlantic County supports the finding that the denial should be upheld. ID at 8. Additionally, the Initial Decision finds that each of the four requests from Atlantic County consistently asked for check and deposit images for Petitioner's accounts. ID 9-11. I concur that Thomas' claim that

Atlantic County was only asking images for four of the five listed accounts was indeed “misplaced” and “unsupported in the record”. ID at 12. The request for these images began with Atlantic County’s first request for information and was included in each subsequent request.¹ In fact, the request for the check images appeared in the first two requests and contain no reference to a specific account. See R-1 at 4 and 5. Atlantic County sought more specific information in the last two notices but repeats the request for check images because, as Thomas admitted, at no time during the application process were those images provided.

In exceptions, Petitioner repeats many of the arguments contained in her pre- and post-hearing brief.² There is no specific reference to findings of fact or conclusions of law to which Petitioner takes exception. N.J.A.C.1:1-18.4. As these arguments were previously made before the ALJ, there is nothing new to consider.

¹ The progression of the notices appear to have the request for the check and deposit images appearing at the top of the first two notices and then being bumped down as some requests are satisfied and new information is sought. The consistent and repeated request for these images is apparent throughout all four notices.

² I note that a number of the fair hearing cases in the exceptions inappropriately cite to the Initial Decision which is not the Final Agency Decision in those cases. N.J.A.C. 1:1-18.6

Thus, based on the findings of fact and conclusions of law contained in the Initial Decision as well as the reasons set forth above, I FIND that the Initial Decision correctly upheld the denial and the record supports this finding.

THEREFORE, it is on this ^{14th} day of JUNE 2021,

ORDERED:

That the Initial Decision is hereby ADOPTED.



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