

This matter arises from the denial of Petitioner's Medicaid application due to her failure to provide information that was necessary to determine eligibility.¹ Based upon my review of the record, I hereby ADOPT the findings and conclusions of the Administrative Law Judge (ALJ).

On October 3, 2019, a Medicaid application was submitted on Petitioner's behalf by her son, who is Petitioner's Power of Attorney (POA). Initial Decision at 2. On or about October 19, 2019, Petitioner entered into a long-term care facility, and on March 18, 2020, Jackie Smith (Smith), an employee of that facility, was appointed as Petitioner's Designated Authorized Representative (DAR) in connection with her Medicaid application. Ibid. By letter dated May 15, 2020 and addressed to Petitioner's POA at the address set forth on Petitioner's Medicaid application, the Monmouth County Division of Social Services (MCDSS) requested various verifications including, but not limited to, "all large (\$1000 or more) deposits and/or withdrawals or transfers in the last 60 months with copies of deposit slips, cancelled checks, etc." Id. at 2-3. On June 4, 2020, MCDSS sent a second request for verifications to Petitioner's POA, and on June 18, 2020, MCDSS sent a letter denying Petitioner's application to Petitioner's POA, stating that the denial was based upon the failure to provide the previously requested documentation. Id. at 3.

On August 16, 2020, Smith called MCDSS to inquire about the status of the application and was informed that the case had been denied in June 2020. Ibid. Smith advised that she was the DAR and had not received any requests for verification. Ibid. She additionally advised that Petitioner's POA had moved from the address set forth on Petitioner's Medicaid application. Ibid. Based upon this conversation, MCDSS agreed to reevaluate Petitioner's Medicaid denial. Ibid.

¹ Petitioner's second application for Medicaid benefits was approved effective September 2020, with three months of retroactivity, dating back to June 1, 2020. ID at 2. However, Petitioner still wished to pursue the appeal of the present denial of her initial application. Ibid.

On or about August 25, 2020, Smith provided MCDSS with a new DAR that designated Shana Zucker (Zucker) as Petitioner's new representative, and on August 31, 2020, Zucker was provided with the two verification request letters previously sent by MCDSS to Petitioner's POA. Ibid. On September 9, 2020, Zucker provided verification information, including bank statements to MCDSS. Ibid. MCDSS reviewed Petitioner's application, in consideration of the documentation presented by Zucker, and determined that the denial should be upheld because checks over \$1,000 had not been provided or verified as requested. Ibid.

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 circumstance. N.J.A.C. 10:71-2.2(e).

Here, Petitioner's POA failed to inform MCDSS of his change in address. While it is alleged in Petitioner's "Chronological Summary of Events for [J.B.]", attached to Petitioner's Exhibits in this matter, that Petitioner's POA reported his change of address to the County sometime between March 18, 2020 and August 16, 2020, there is no documentary evidence in the record to support such a conclusion or the specific day during that time frame that the change of address was alleged to have occurred. Additionally, Petitioner has failed to provide any documentary evidence to show that the DAR listing Smith as Petitioner's representative was filed with MCDSS prior MCDSS requesting documentation from Petitioner's POA. MCDSS argues that it never received said DAR. ID at 5. As such, without a fully-executed DAR on file or a change of address from Petitioner's POA, MCDSS appropriately mailed the verification requests to Petitioner's POA at the address he had listed on Petitioner's application.

Moreover, while Zucker testified that Smith had been in contact with MCDSS from March through August 2020 regarding the status of Petitioner's application and she was informed that the application was pending, Zucker provided no documentation to support her statements. Id. at 4. Additionally, Smith did not testify as to her conversations with MCDSS. While hearsay evidence shall be admissible during contested cases before the OAL some legally competent evidence must exist to support each ultimate finding of fact to an extent sufficient to provide assurances of reliability and to avoid the fact or appearance of arbitrariness. N.J.A.C. 1:1-15.5(b). The finding of fact cannot be supported by hearsay alone. Rather, it must be supported by a residuum of legal and competent evidence. Weston v. State, 60 N.J. 36, 51 (1972). As such, Zucker's statements alone regarding conversations that allegedly occurred between another person and MCDSS, without any documentary evidence to support the alleged conversations, are not enough to support a showing that at the time that MCDSS sent the verification and denial letters to Petitioner's POA, MCDSS was aware that Smith was Petitioner's representative, rather than her POA.

The record reflects that once MCDSS received communication and the DAR from Smith in August 2020, MCDSS made a concession and reopened the matter for Smith to provide the documentation previously requested. Id. at 3. Once Zucker was appointed as the DAR, she received the two previous letters sent by MCDSS to Petitioner's POA. Ibid. The May 15, 2020 letter specifically requested that deposits, withdrawals, or transfers during the last sixty months in the amount of \$1,000 or more be verified by providing copies of "deposit slips, canceled checks, etc." R-2 at 2. Petitioner failed to comply with this request, even after receiving both the May 15, 2020 and June 4, 2020 letter concurrently. Regardless of Zucker's belief that it was evident that the checks over \$1,000 were for Petitioner's rent, MCDSS could not just assume to know the use for the issued checks.² See ID at 4. It was

² Petitioner provided a letter from a previous residence that shows that the rent amount during tenancy is \$1,055. P-3 at 1. The letter additionally states that the lease term begins on November 1, 2018 and ended when Petitioner was "no longer a resident." Ibid. However,

up to Petitioner, through her representative, to provide the appropriate documentation necessary for MCDSS to confirm eligibility. The failure to do so appropriately resulted in Petitioner's application being denied.

Petitioner additionally argues that the denial of Petitioner's application was improper because MCDSS failed to timely process the Medicaid application within 45 days, pursuant to N.J.A.C. 10:71-2.2(a). ID at 5. Specifically, Petitioner argues that it took 225 days from the date of the application until to first request verification being issued. Ibid. 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. However, the time frame may be extended when documented exceptional circumstances arise preventing the processing of the application within the prescribed time limits, such as an "emergency that could not reasonably have been avoided" or "[c]ircumstances wholly outside the control of both the applicant and CWA." N.J.A.C. 10:71-2.3(c)3 and 4; See also 42 CFR § 435.912(e)(2) (providing that an agency must determine eligibility within the standard except in unusual circumstances such as "when there is an administrative or other emergency beyond the agency's control."). As found by the ALJ, MCDSS acknowledges that the processing of Petitioner's application was delayed due to staffing shortages and as a result of the COVID-19 pandemic. This delay was thus,

the list of monthly transactions exceeding \$1,000 shows that between March 25, 2015 and November 1, 2019, Petitioner wrote monthly checks in varying amounts between \$1,004 and \$1,055. P-5 at 1-2. The only check provided that was made out in the amount of \$1,055 was on November 1, 2019. Id. at 2. It is unclear how the other amounts set forth on P-5 relate to Petitioner's rental payments based on the rental letter and the documents entered into evidence at the hearing.

due to an administrative and global public health emergencies that could not reasonably have been avoided and that were not the result of circumstances within the control of either party. Additionally, when substantial reliable evidence is still lacking at the end of the designated period, the application may be continued in a pending status. N.J.A.C. 10:71-2.3(c). Here, MCDSS lacked the information necessary to make a determination in relation to Petitioner's application at the end of the forty-five day review period and it was necessary for MCDSS to request documentation to make an eligibility determination. As such, Petitioner could not be deemed financially eligible until the requested verification was provided.

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 11th day of APRIL 2021,

ORDERED:

That the Initial Decision is hereby ADOPTED.



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