

the record, I hereby ADOPT the findings and conclusions of the Administrative Law Judge (ALJ).

On March 11, 2020, a Medicaid application was submitted on Petitioner's behalf by her Designated Authorized Representative (DAR), Terri Valenza, the Regional Business Office Manager of the nursing facility where Petitioner resides. R-1. The DAR relied upon Petitioner's husband, D.D., to help assist in completing the application. ID at 2-3. The application failed to contain any identifying information related to D.D. and provided that neither Petitioner nor D.D. had any income or employment. R-1. However, at the time of the application, D.D. was employed. ID at 3. D.D.'s employment ended on April 30, 2020. Ibid. MCDSS also discovered additional accounts at Wells Fargo and Merrill Lynch that were not reported on the application. R-5 at 9. The application additionally reported that neither Petitioner nor D.D. owned any insurance policies; however, D.D. had a term life insurance policy that was maintained through his employer, which lapsed after his employment ended. Id. at 3 and R-1.

On March 24, 2020, MCDSS sent a letter that requested various verifications, including the "cash surrender [value of] life insurance policies, etc.", which was due by April 2, 2020. R-5. The DAR confirmed at the hearing in this matter that she received this letter. ID at 4.

MCDSS sent a second letter, dated April 6, 2020, requesting information to complete Petitioner's application. R-5. The letter set forth a deadline of May 5, 2020 to provide the documentation. Ibid. Again, the requests included the "cash surrender value of life insurance policies." Ibid. The DAR testified that she did not receive this letter because it was addressed to D.D.; however, D.D. stated that if he received anything from MCDSS regarding Petitioner's application, he would have forwarded it to the DAR. ID at 4.

On June 15, 2020, MCDSS sent a third letter requesting verifications by June 29, 2020. R-5. This letter again requested a "copy of all life insurance policies along with

verification of current cash surrender value—if any” Ibid. The DAR admitted that she received this letter. ID at 4.

On August 14, 2020, MCDSS sent a fourth letter that requested verifications by August 28, 2020. R-5. The letter requested a “copy of all life insurance policies along with verification of current cash surrender value—if any” and “any other life insurance policies received by your employer showing face value and CSV (term or whole life).” Ibid. The DAR testified that she also received this letter. ID at 4.

Prior to September 3, 2020, D.D. provided a letter to the DAR regarding a life insurance policy he held through his employer that was dated April 9, 2020.¹ R-4. The letter advised D.D. that his life insurance policy was convertible to a personal policy directly from the insurance company within thirty-one days following his coverage termination. Ibid. The letter included handwritten language at the bottom that stated “No longer inforce, term. Death benefit [sic] only - no cash value.” Ibid. The letter did not include any identification of the author of the notes. The DAR forwarded this document to MCDSS where it was received on September 3, 2020. ID at 5.

On September 8, 2020, MCDSS sent a fifth verification letter, which requested, among other information, “if any Securian Life Insurance Company, death benefit statement.” R-5. The letter provided a deadline of September 22, 2020. Ibid. The DAR testified that she received this letter approximately five days after it was sent by MCDSS, and that she contacted MCDSS to confirm that additional information was needed beyond the April 9, 2020 letter that was provided. ID at 5. The DAR additionally testified that D.D. contacted his former employer and requested documentation related to the value of the insurance policy.

¹ The Initial Decision states that this letter was provided to the DAR by D.D. in response to the August 14, 2020 verification letter. ID at 5. The DAR testified that the first time she learned of the existence of the life insurance policy was when D.D. provided her with the letter in September 2020. The documentary evidence in the record does not show a date upon which the DAR received the document from D.D. and only shows that it was received by MCDSS on September 3, 2020. See R-4.

Ibid. By letter dated October 1, 2020, D.D.'s former employer advised that D.D. did not exercise his option to convert his "Basic Life Insurance" to a personal policy with Securian and that the group term life insurance policy held no cash value. P-1. The DAR confirmed that neither she nor D.D. provided the requested documentation to MCDSS by the deadline of September 22, 2020, but stated that she was not granted an extension of time to provide same. ID at 6. The DAR stated that she provided the October 1, 2020 letter from D.D.'s former employer to MCDSS via overnight mail on October 7, 2020. Ibid.

Because the requested documentation was not received prior to the September 22, 2020 deadline, MCDSS denied Petitioner's application on September 25, 2020 for "fail[ing] to provide corroborating evidence as requested at the time of application, and in letters dated, 03/24/2020, 04/06/2020, 06/15/2020, 08/14/2020, & 09/08/2020." R-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).

Here, Petitioner's DAR had been aware since at least March 24, 2020, when the first verification letter was issued, that information related to any life insurance policies held by Petitioner and D.D. were necessary for MCDSS to evaluate Petitioner's application for eligibility. Moreover, D.D. should have been aware at the time of Petitioner's application on March 11, 2020 that he had a life insurance policy through his place of employment, and yet, this information was not provided to MCDSS on Petitioner's application. I note that D.D. was still employed, and the group life insurance policy was still active, at the time of Petitioner's application and remained so until April 30, 2020 when his employment ended. Additionally, the letter from his employer that provided information related to D.D.'s option to convert the policy into a personal policy was dated April 9, 2020. R-4. At the time that the letter was issued, two verification letters had been issued asking for information related to the any life insurance policies owned by Petitioner or D.D. R-5. An additional two letters were issued by MCDSS after D.D. received this letter and yet, it wasn't submitted to MCDSS by the DAR until September 3, 2020, six days after the deadline set forth in MCDSS's August 14, 2020 verification letter, which was the fourth verification letter sent by MCDSS requesting life insurance documentation. R-4 and R-5.

Additionally, it was not until September 22, 2020, the deadline set forth in the fifth verification letter issued by MCDSS on September 8, 2020, that D.D. contacted his former employer for information related to the life insurance policy he held while he was employed. His former employer issued a letter in response to that request nine days later on October 1, 2020. P-1. There is nothing in the record to support a finding that this information was unable to be obtained during the 182 days between the first verification letter on March 24, 2020 and September 22, 2020, the deadline set forth in the September 8, 2020 verification letter.

Moreover, I agree with the ALJ's assessment that MCDSS was not required to accept the handwritten notes on the April 9, 2020 letter from his employer as a "self-attestation" that the life insurance policy in question had no cash value. ID at 9-10. First, there is no information contained in the letter that sets forth who authored the notes and no additional corroborative evidence was provided to MCDSS at that time the letter was submitted that would have supported the content of the notes, pursuant to N.J.A.C. 10:71-3.1(b). Moreover, while MedCom No. 20-04 grants a County Welfare Agency (CWA) flexibilities in processing applications during the COVID-19 emergency period, including accepting self-attestation of resources when the CWA is unable to verify resources electronically, it does not mandate that CWAs accept self-attestations. See MedCom No. 20-04 (stating "If the applicant/spouse's resources listed on the application cannot be verified and are less than the resource standards, the application can be approved without additional information. If the applicant/spouse's assets are verified greater than the resource standard, then the EDA will pursue additional information from the applicant." Emphasis added.). As noted by the ALJ, these flexibilities are permitted when the verification of the applicant's assets cannot be verified through normal means. Here, as noted above, the letter does not set forth who authored the notes and no additional credible evidence was provide to establish the reliability of the information contained in the notes. Additionally, the information requested by MCDSS in five separate verification letters, over a period of 182 days, was easily accessible to the DAR and D.D., as evidenced by D.D. obtaining the letter from his employer within nine days following his request. Accordingly this matter does not warrant the flexibility permitted by MedCom No. 20-04.

Moreover, while extensions of time may be granted for demonstrated exceptional circumstances, pursuant to N.J.A.C. 10:71-2.3(c), no exceptional circumstances were presented in this matter that would have necessitated an extension of time. The information related to the life insurance policy held by D.D. was readily accessible to D.D. prior to the

application being filed in March 2020. Moreover, the DAR and D.D. had 182 days from the first verification letter to the deadline set forth in the last verification letter to request, receive, and submit the information specifically requested by MCDSS in five separate verification letters. However, it was not requested until the final deadline set forth by MCDSS. The failure to timely request the documentation does not create a necessity for an extension of time, and MCDSS was not obligated to provide same to the DAR. Moreover, and as noted by the ALJ, MCDSS was not required to accept the October 1, 2020 letter from D.D.'s former employer after the denial letter was issued. See MedCom No. 10-09 (stating "After the denial letter is sent, no further documentation will be accepted by the Agency. The applicant or their representative will be informed that a new application must be submitted."). The DAR repeatedly failed to provide the requested documentation and the application was appropriately denied.

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 29th day of JUNE 2021,

ORDERED:

That the Initial Decision is hereby ADOPTED.



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