

1, 2020, an application for Medicaid benefits was filed on Petitioner's behalf with the Atlantic County Department of Family and Community Development (County). Between March 4, 2020 and August 27, 2020, Petitioner, first through his Power of Attorney (POA) and then through his Designated Authorized Representative (DAR), Rivka Selengut of Future Care Consultants, received several letters, which requested information to process the application. Petitioner's DAR also requested and received multiple extensions of time to provide the requested documentation. Nevertheless, Petitioner failed to provide at least nineteen¹ outstanding items, including copies of several deposits and withdrawals from his bank accounts, explanations for certain withdrawals, and a copy of his Personal Needs Allowance (PNA) statement from the facility where he resides, and the application was denied on August 27, 2020. Based upon my review of the record, I hereby ADOPT the findings and conclusions of the Administrative Law Judge (ALJ).

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); MedCom No. 10-09; and 42 CFR § 435.912. The time frame may be extended when documented exceptional circumstances arise preventing the processing of the

¹ The County testified in this matter that as of the last verification letter, dated August 11, 2020, twenty-four items were outstanding and at the time of the denial, nineteen items were outstanding. ID at 4.

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).

As found by the ALJ, the record reflects that in March 2020, Petitioner's POA filed a Medicaid application on his behalf. ID at 2. On or about March 4, 2020, the County sent an initial request to Petitioner's POA for verification of certain information that was necessary to determine eligibility, which included requests to provide personal information, such as Petitioner's birth certificate, insurance card, and physician's certification, as well as information related to Petitioner's financial information, such as bank accounts, stocks, and bonds owned by Petitioner. R-.1 at 4. The March 4, 2020 letter additionally requested statements from a TD Bank account held by Petitioner. Ibid. On March 5, 2020, the County sent a supplemental letter to Petitioner's POA that requested statements from a second TD Bank account owned by Petitioner. Id. at 6. On March 12, 2020, the County sent a third letter to Petitioner's POA, which sought additional financial information related to both TD Bank accounts. Id. at 7-8. On May 19, 2020, the County sent another letter to Petitioner's POA advising that Petitioner's application would be denied if the previously requested documentation was not submitted by June 3, 2020. Id. at 9. On June 3, 2020, a DAR form, dated April 21, 2020, which named Selengut as Petitioner's DAR, along some of the documentation that was previously requested, was sent to the County. Id. at 10. The DAR requested an extension of time to provide the outstanding documentation, which was granted by the County, and a deadline of June 17, 2020 was provided. Ibid. On June 17, 2020, a letter was set to the DAR, advising that Petitioner's application would be denied if the requested documentation was not provided by July 3, 2020. Id. at 11-12. The letter listed documentation that was previously requested and still outstanding as well as new information

that was being requested based upon the documentation previously provided. Ibid. The DAR sent an email to the County on July 3, 2020, which included documentation that she was able to obtain, listed the documentation that was still outstanding, and requested that the case remain open pending receipt of the documentation. Id. at 13. The County sent a letter, dated July 24, 2020, which itemized the documentation that was still outstanding and additional documentation that was required to process Petitioner's application. Id. at 14. On August 11, 2020, the County sent another letter to the DAR that contained a list of all the documentation that was still outstanding and included some new requests for verification. Id. at 15-16. The letter additionally advised the DAR that Petitioner's application would be denied if the documentation was not received by August 26, 2020. The DAR emailed the County on August 12, 2020 and provided several of the documents requested in August 11, 2020 letter; however, several documents remained outstanding. Id. at 17. The DAR did not request any additional extensions to provide the outstanding documentation, and Petitioner's application was denied on August 27, 2020. ID at 4-5.

The County provided a considerable amount of time for Petitioner's representatives to provide the requested verifications. Specifically, Petitioner's representatives had 177 days from the date of the first verification letter on March 4, 2020 until the County issued the denial of Petitioner's application on August 27, 2020. Additionally, the County provided a total of seven separate notices, which requested the verification documentation. While new requests for documentation were included in subsequent letters, the County testified that the subsequent requests were based upon documentation received from Petitioner's representatives and the requested information was necessary to determine Petitioner's eligibility. ID at 4-5. Moreover, the majority of the documentation requested related to the same two TD Bank accounts owned by Petitioner. The County additionally worked with Petitioner's representatives to provide multiple extensions of time to provide the requested documentation. However, the DAR failed to request a final extension of time even though

she was aware that she would not have all of the requested documentation prior to deadline set forth in the August 11, 2020 letter. While additional extensions of time may not have ultimately have been provided due to the age of case in this matter, it was the DAR's responsibility to request an extension of time if necessary to obtain the requested documentation. It is not the County's responsibility to follow up with the DAR on the status of the requested documentation prior to denying Petitioner's application. The DAR testified that she was aware that her failure to provide the requested documentation or request an extension of time by the deadline set forth in the August 11, 2020 letter would result in the denial of Petitioner's application.² Id. at 5-6.

Moreover, while the DAR appears to have only testified regarding her inability to obtain the TD Bank information because of the Bank's alleged unresponsiveness to her requests, she did not provide an explanation as to why the other requested documentation, such as Petitioner's PNA account statement was not provided when it was easily accessible to the DAR. Specifically, pursuant to N.J.A.C. 8:85-1.16(f), the nursing facility accepts fiduciary responsibilities for a Medicaid beneficiary's PNA if the PNA is being managed by the facility. Petitioner submitted a "Spousal Release" to TD Bank that was written on the letterhead of the Petitioner's nursing facility. See P-1. The letterhead listed the address for Future Care Consultants, the employer of Petitioner's DAR, as the address for the nursing facility, showing a relationship between the two entities. Moreover, Future Care Consultants has been identified in other matters related to the filing of Medicaid applications as the fiscal or financial agent for nursing homes and assisted living facilities. See E.T. v. Division of Medical Assistance and Health Services, A-0403-16T4 (App. Div. November 20, 2017) (stating, "Future Care Consultants, the financial agent for multiple nursing facilities in New Jersey.");

² The DAR testified that she believed that after her August 12, 2020 email to the County, additional time would be provided. Id. at 5. It is unclear why she believed this to be the case, as she failed to request an extension of time and there is nothing in the record that shows that the County affirmatively advised that an extension would be provided. See R-1 at 17.

See also B.L. v. Division of Medical Assistance and Health Services, A-3997-16T3 (App. Div. August 16, 2018); and A.S. v. Division of Medical Assistance and Health Services, A-0276-15T1 (App. Div. April 10, 2018). Accordingly, the request by the County for the PNA account information should be a familiar request to both Future Care Consultants and the nursing facility where Petitioner resides. Thus, there is nothing in the record to support a finding that this verification request was unfeasible or any supported reason as to why it was never provided to the County. As no additional extensions of time were requested, above the extensions previously granted, no exceptional circumstances that would have necessitated any additional extensions of time to provide the requested verifications exist in this matter, and the DAR failed to provide the requested documentation in the timeframes set forth by the County, I FIND that the County appropriately denied Petitioner's application and as the record supports this finding, the Initial Decision correctly upheld the denial.

THEREFORE, it is on this 1st day of JUNE 2021,

ORDERED:

That the Initial Decision is hereby ADOPTED.



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