



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

T.L.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE

AND HEALTH SERVICES AND

MONMOUTH COUNTY DIVISION

OF SOCIAL SERVICES,

RESPONDENTS.

ADMINISTRATIVE ACTION

ORDER OF RETURN

OAL DKT. NO. HMA 06887-2020

As Assistant Commissioner for the Division of Medical Assistance and Health Services, I have reviewed the record in this case, including the Initial Decision and the Office of Administrative Law (OAL) case file. Petitioner filed exceptions in this matter. Procedurally, the time period for the Agency Head to render a Final Agency Decision is June 7, 2021 in accordance with an Order of Extension.

This matter arises from the June 2020 denial of Petitioner's Medicaid application due to her failure to provide information that was necessary to determine eligibility. On Petitioner's April 2019 Medicaid application, her Designated Authorized Representative

(DAR), Breindy Bernstein of Future Care Consultants, marked Petitioner's marital status as "single." R-1. However, Petitioner was still married, but was separated from her husband.¹ P-4.

On May 21, 2019 and June 4, 2019, the Monmouth County Division of Social Services (MCDSS) issued letters to Petitioner's DAR, which requested verification of certain information that was necessary to process the application. R-2 and R-3. Included in these letters were requests to verify the marital status of Petitioner, income and assets related to Petitioner's spouse, and bank accounts held with Chase Bank and TD Bank.² Ibid. It is not explicitly stated in the record whether all of the requested verifications were received; however, on or about June 17, 2019, another employee of Future Care Consultants, Gitty Karp, submitted to the MCDSS a letter in response to the verification requests,³ which provided that Petitioner was separated from her husband, who moved to Vietnam, and that Petitioner had no way of getting into contact with him. R-4. The letter additionally requested that a spousal waiver be completed and asserted that the Chase and TD Bank accounts referenced in the verifications letters, as well as the money contained therein, belonged to Petitioner's daughters with Petitioner's name only placed on the accounts. Ibid. Karp emailed the MCDSS twice, on June 19, 2019 and July 3, 2019, to confirm that the June 17, 2019 letter and verifications were received by the MCDSS. P-1. The MCDSS responded on July 3, 2019 and informed Karp that the application was "in pending status." Ibid.

¹ It is unclear how it was discovered that Petitioner was married. The MCDSS provided that Petitioner's marital status was discovered "through an unknown channel" by the former employee that was assigned to Petitioner's application; however, Petitioner alleged that the mistake on application was identified and corrected within one month of the application being filed. See MCDSS's "Chronological Summary of Events for [T.L.] MLTSS Application" at 1(a) and Petitioner's "Brief in Advance of Fair Hearing" at 1.

² I note that in addition to misrepresenting Petitioner's marital status on her application, the DAR also failed to disclose these two bank accounts as assets belonging to Petitioner.

³ Only the cover letter was included in the record; however, the cover letter refers to attachments that seem to relate to the verifications requested by the MCDSS in its May 21, 2019 and June 4, 2019 letters.

below, I hereby REJECT the Initial Decision and return the matter to the MCDSS for further action on Petitioner's application as set forth herein.

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 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, an 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).

While I concur with the ALJ that Petitioner did not provide any documentation to show that Petitioner followed up with the MCDSS regarding the application's status within the ten-month period between MCDSS's July 2019 email advising that the application was pending and the May 2020 third verification letter, I disagree with the ALJ's conclusion that the DAR's misrepresentation of the Petitioner's marital status on her application resulted in the abandonment of the application. It is undisputed that the Petitioner's marital status was either

this referenced DAR.

corrected or discovered at some point prior to the May 21, 2019 verification letter being issued, as the verification letter requested information related to Petitioner's marital status and spouse. Karp additionally advised of Petitioner's marital status in his June 17, 2019 letter to the MCDSS and requested that a spousal waiver be completed in this matter. See R-4. Moreover, the misrepresentation alone was not the basis for the denial in this matter. The denial was based upon Petitioner's failure to provide documentation that was necessary for MCDSS to make a determination regarding Petitioner's eligibility.

Additionally, it does appear that Petitioner's DAR provided most of the requested documentation to MCDSS within the timeframes provided by the MCDSS. Specifically, the MCDSS does not contest the DAR's assertions that the June 17, 2019 letter from Karp contained all of the verifications requested by MCDSS through the May 21, 2019 and June 4, 2019 verifications letters. Further, although the June 1, 2020 denial letter provided that Petitioner failed to supply the verifications requested in the May 21, 2019, June 4, 2019, and May 18, 2020 letters, the only items contained in the final verification letter were the completed Affidavit for Spousal Waiver and the removal of Petitioner's names from bank accounts that did not belong to her. See R-5. Therefore, it appears that only these two requests were outstanding at the time of the denial. Moreover, the May 29, 2020 email from the MCDSS advised the DAR to submit these two verifications "ASAP" and never specifically responded to the DAR's request for an extension. See P-2. It appears that the DAR complied with this request, as the DAR sent the Affidavit of Spousal Waiver to the MCDSS on June 1, 2020, which was one business day after receiving the MCDSS's email. That June 1, 2020 letter additionally requested that an extension of time be granted in order to provide information related to the bank accounts at issue and set forth a reason why the extension of time was necessary. The tracking information provided by the DAR shows that the MCDSS received documents from the DAR on June 2, 2020. However, the MCDSS had

already denied Petitioner's application on the same day that the overnight package was sent.

See R-6.


I cannot discern what MCDSS meant when it instructed the DAR to send in the requested information "ASAP". I note that the email was sent on Friday and the documents were posted on Monday. Absent any hard deadline set forth by MCDSS, it is reasonable to find that the June 2, 2020 submission should be reviewed. Accordingly, and based upon the specific timeline and facts presented, I FIND that the matter should be RETURNED to MCDSS to consider the June 2, 2020 submission and issue a determination.

THEREFORE, it is on this 3rd day of JUNE 2021,

ORDERED:

That the Initial Decision is hereby REVERSED; and

That the matter is hereby RETURNED to the MCDSS for further action as set forth above.



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