

This matter arises from the Morris County Office of Temporary Assistance's (MCOTA) August 9, 2021 denial of Petitioner's Medicaid application for failure to provide verifications. On January 26, 2021, Petitioner, through her authorized representative, filed a Medicaid application with the MCOTA. On February 9, February 25 and June 3, 2021, the MCOTA issued requests for verifications necessary to determine Petitioner's eligibility. The February 25th and the June 3rd requests required Petitioner provide verifications regarding her Fidelity Account. Petitioner had fifteen and ten days respectively to provide the information. On June 11, 2021, Petitioner's attorney notified the MCOTA that Fidelity had purged the account from its records and that they would provide the information as soon as it became available. Petitioner did not specifically request an extension of time. However, Petitioner's application remained open until it was denied on August 9, 2021.

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). MCOTA as the County Welfare Agency (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 and 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. 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 MCOTA 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).

At all times relevant to the application process, and for six months prior, Petitioner had legal representation. Petitioner disclosed the Fidelity account on her January 2021 application but noted that the account had a zero balance; not that it was closed.¹ Thereafter, Petitioner was asked on two occasions, in February and June 2021, to provide information regarding her Fidelity account by June 13, 2021. It was not until June 11, 2021, that the Petitioner's attorney notified MCOTA that the account was closed, and that they were seeking additional documentation to that effect. Petitioner made no specific request for an extension of time, only that she would provide the information as soon as possible. A month later, on July 12, 2021, Petitioner's attorney sent a letter to Fidelity asking it to provide the requested documentation by July 28, 2021, forty-five days after the June 13, 2021 deadline. The MCOTA was not copied on, or notified of, this letter.²

The MCOTA held open the application for nearly two months after Petitioner's June 11, 2021 email, for a total of 195 days. With no additional communications or documentation from Petitioner in that time, MCOTA was not able to complete its eligibility determination and the August 9, 2021 denial was appropriate. The fact that Fidelity's August 11, 2021 letter reached Petitioner's attorney before MCOTA's denial letter has no bearing on when the MCOTA received all of the information it needed to determine Petitioner's eligibility. In fact, the record does not show that Petitioner attempted to provide the August 11th Fidelity letter to the MCOTA in connection with this application at any time prior to the fair hearing.³ The record here contains no documented exceptional circumstance warranting an extension of time beyond the 195 days the application remained open.

¹ The status of the Fidelity account was necessary to determine financial eligibility as an open account could contain resources.

² The certified mail return receipt was not made part of the record.

³ While receipt of the Fidelity letter may have satisfied MCOTA's request for information, it is not indicative of Petitioner's eligibility. Furthermore, the MCOTA does not conduct on the spot eligibility determinations at fair hearing where the contested issue is a failure to timely provide verification.

THEREFORE, it is on this 8th day of MARCH 2022,

ORDERED:

That the Initial Decision is hereby REVERSED.



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