

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 forty-five days and Blind and Disabled cases within ninety days N.J.A.C. 10:71-2.3(a) and 42 CFR § 435.912. The timeframe 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).

On September 30, 2020, an application for Medicaid benefits was filed on Petitioner's behalf by her attorney Matthew Bravette, Esq., with the Burlington County Board of Social Services (BCDSS). R-1.¹ Although Petitioner was residing at an assisted living facility in Camden County at the time of the application, the application was incorrectly filed with

¹ The Appendix to the Initial Decision incorrectly attributes Petitioner's Exhibits to Respondent and Respondent's Exhibits to Petitioner. See ID at 12-13. This Final Agency Decision will refer to Petitioner's Exhibits as A through F, as set forth in his September 27, 2021 Brief, and Respondent's Exhibits as 1 through 10 as set forth in its August 19, 2021 Brief.

BCBSS based on Petitioner's prior address. ID at 2. Through a letter dated October 5, 2020, BCBSS requested verification of certain information that was necessary to process the application, including, among other things, "any and all pertinent verifications of all resources (with the exception of bank accounts) solely or jointly owned (C.D.'s, stocks, bonds, money market, 401K's, IRA's, Brokerage accounts, annuities, trusts, cash surrender value of life insurance policies, etc.) opened or closed in the last 5 years prior to application." J-1. On October 30, 2020, Mr. Bravette provided verification of certain verifications and indicated that additional documents had been requested and would be provided upon receipt. P-E. The verifications provided included a copy of a check to a funeral home in the amount of \$6,600, paid on June 8, 2020, "for [Petitioner's] Service" and three Credit Union of New Jersey (CUNJ) tellers' checks written out to Petitioner with electronic endorsement information referencing Petitioner's Bank of America bank account.² Ibid. On November 20, 2020, BCBSS denied Petitioner's application due to "Income eligibility standards" and advised that Petitioner's "monthly income exceeds eligibility. Failed to provide PERS Pension. [Qualified Income Trust (QIT)] is invalid, Trust protector language does not meet Medicaid eligibility. Schedule A is blank." R-2.

On December 31, 2020, a new Medicaid application was filed on Petitioner's behalf with the Camden County Board of Social Services (CCBSS). ID at 3. In February 2021, Mr. Bravette was advised by BCBSS that the November 2020 denial of Petitioner's application was rescinded, and that Petitioner's application had been returned to pending status. Ibid. On February 12, 2021, Mr. Bravette submitted requested verifications to CCBSS in connection with Petitioner's second Medicaid application. R-3. The verification response letter included a reference to a prepaid funeral contract and indicated "we have requested a

² The first check was issued in the amount of \$10,000, endorsed by Petitioner's power of attorney (POA) on April 2, 2019. The second check was issued in the amount of \$43,238.97, endorsed by Petitioner's POA on April 18, 2019. The third check was issued in the amount of \$3,000, endorsed by Petitioner on July 9, 2019. P-E.

copy of this and will provide upon receipt” and additionally referenced transfers from a CUNJ account to Petitioner’s Bank of American bank account. Ibid. By letter dated March 10, 2021, Mr. Bravette submitted additional verifications to CCBSS in connection with Petitioner’s second Medicaid application. R-4. The verifications provided included bank statements for a CUNJ account belonging to Petitioner. Ibid. On or about April 13, 2021, CCBSS denied Petitioner’s second Medicaid application.³ ID at 4.

By letter dated May 25, 2021, BCBSS denied Petitioner’s original, September 30, 2020, Medicaid application due to “responsibilities of the applicant.” P-D. The letter advised that

Your 9/30/2020 application is denied for failure to report/provide verification of all resources owned by client or spouse within 60 days of application date. It was discovered that an online ABD application was submitted on the NJFC online portal in Camden which reported a South Jersey Credit Union account⁴ ending in . . . , and a pre-paid Burial purchased in May 2020. . . . This information was not indicated on the Burlington County Sept 2020 application and therefore we are unable to request appropriate documents. (The QIT issue has been resolved as the client submitted a new/valid QIT template and proof of funding.)

Ibid.

The Initial Decision in this matter upheld the denial of Petitioner’s application, and I concur. Petitioner’s September 30, 2020 application failed to advise BCBSS of the existence of either the prepaid funeral trust and the CUNJ account held by Petitioner, even though both the prepaid funeral trust and CUNJ account were known to Petitioner’s power of attorney (POA) prior to the submission of the application in September 2020. Specifically, I note that the check to the funeral home was endorsed by Petitioner’s POA on June 8, 2020 and the

³ It is unclear from the record why Petitioner’s second Medicaid application was denied. However, on May 19, 2021, a third Medicaid application was submitted on Petitioner’s behalf with CCBSS, which was ultimately approved on July 30, 2021, with eligibility as of May 1, 2021 and retroactive benefits to February 1, 2021. ID at 4.

⁴ While BCBSS stated that it was a South Jersey Credit Union account, it appears that the account at issue was actually a CUNJ account.

POA endorsed at least two of the tellers' checks that were issued to Petitioner in 2019. P-E. The application specifically requested information related to all trusts, bank accounts, and other resources owned by Petitioner, and this information, thus, should have been disclosed to BCBSS at the time of the application. See R-1. While Petitioner supplied a check to the funeral home and three tellers' checks from CUNJ to BCBSS in response to its October 2020 verification request, the funeral home check did not reference the existence of a prepaid funeral trust and the tellers' checks made no reference to any accounts held by Petitioner at CUNJ. P-E. Without disclosing the existence of both the prepaid funeral trust and the CUNJ account, BCBSS was unable to request verifications related to either account. Moreover, even though Petitioner's counsel was advised in February 2021 that BCBSS rescinded its previous denial of Petitioner's September 30, 2020 application and verifications referencing both of the prepaid funeral trust and the CUNJ account were submitted to CCBSS in February and March 2021, Petitioner still failed to advise BCBSS of the existence of both the prepaid funeral trust and the CUNJ account prior to the May 2021 denial of Petitioner's application. The disclosure of both the prepaid funeral trust and the CUNJ account were necessary for BCBSS to determine Petitioner's eligibility. Petitioner's failure to disclose the existence of these accounts appropriately resulted in the denial of Petitioner's application.

Accordingly, for the reasons set forth above and those contained in the Initial Decision, I hereby ADOPT the Initial Decision's conclusion that BCBSS properly denied Petitioner's application.

THEREFORE, it is on this 3rd day of February 2022,

ORDERED:

That the Initial Decision is hereby ADOPTED.



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