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STATE OF NEW JERSEY
DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE
AND HEALTH SERVICES

A.D.,

PETITIONER,

v.

ESSEX COUNTY DEPARTMENT

OF FAMILY SERVICES,

RESPONDENTS.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 09359-2023

(ON REMAND HMA 02889-2023)

As Assistant Commissioner for the Division of Medical Assistance and Health Services (DMAHS), I have reviewed the record in this case, including the Initial Decision and the Office of Administrative Law (OAL) case file. Respondent filed exceptions in this matter. Procedurally, the time period for the Agency Head to render a Final Agency Decision is March 7, 2024, in accordance with an Order of Extension.

This matter arises from the March 16, 2023 denial of Petitioner's Medicaid application due to her failure to provide information that was necessary to determine eligibility. The Initial Decision reversed the denial. Based upon my review of the record, I hereby REVERSE the findings and conclusions of the Administrative Law Judge (ALJ) as specified herein.

By way of background, Petitioner filed a Medicaid application on February 21, 2023. The application was received by Essex County on February 27, 2023. On March 1, 2023, Essex County requested specific verifications needed to make an eligibility determination,

namely, proof that Petitioner established and funded a Qualified Income Trust (QIT), detailed letter from the Department of Veterans Affairs (VA) and statements that showed Petitioner's combined resources were at or below \$2,000. Petitioner failed to provide the requested information within the allotted timeframe and her application was denied on March 16, 2023. The matter was transferred to the OAL as a contested case.

On June 6, 2023, an Initial Decision was issued wherein the ALJ determined that the Division improperly denied Petitioner's application seeking retroactive benefits and that the Division's methodology used to deny benefits were improper. However, the issue before the OAL in this matter is not whether Petitioner's VA pension is being incorrectly included in Petitioner's income calculation to determine eligibility. Rather, the only issue before the OAL concerned Petitioner's failure to provide specific verifications requested by Essex County prior to its March 16, 2023 denial. Administrative agencies have the discretion to determine whether a case is contested. N.J.S.A. 52:14f-7(a). The OAL acquires jurisdiction over a matter after it has been determined to be a contested case by an agency head. N.J.A.C. 1:1-3.2(a). A contested case is commenced in the State agency with appropriate subject matter jurisdiction. N.J.A.C. 1:1-3.1. DMAHS is the administrative agency within the Department of Human Services (DHS) that is charged with administering the Medicaid program. N.J.S.A. 30:4D-4. Here, the Initial Decision discussed and made findings related to Petitioner's VAIP benefits being included as income, which does not form the basis for the present appeal. The CWA makes the determination regarding what information is necessary in order to determine eligibility, regardless of whether the applicant agrees with the specific requests.

¹ In the present matter, Essex County concluded that the information requested was necessary to determine eligibility and requested that Petitioner provide verification of same.

¹ As noted in *Galletta*, "Individual decisions on Medicaid eligibility are made on the local level by county welfare agencies that DMAHS contracts with N.J.A.C. 10:71-1.5. When seeking an eligibility decision, applicants must provide county agencies with documentation and evidence related to their resources." See N.J.A.C. 10:71-2.2(e); N.J.A.C. 10:71-3.1(b). *Galletta v. Velez*, 2014 U.S. Dist. LEXIS 75248 at 18 (D.N.J. June 3, 2014).

Moreover, while certain types of VA benefits are not included in the applicant's countable income calculation to determine eligibility, they are considered when determining Petitioner's post-eligibility treatment of income. Accordingly, Essex County's request related to Petitioner's VA pension amount was appropriate. Moreover, documentation related to the VA pension was only one of the items that remained outstanding at the time of the denial. Essex County also stated in the denial letter that Petitioner failed to establish and fund a QIT, and that statements showing Petitioner met the resource limit to qualify for benefits were also outstanding.

For further review, the undersigned issued an Order of Remand on September 5, 2023, which reversed the Initial Decision and remanded the matter to further develop the record. More specifically, the Order of Remand sought a review related solely as to whether Petitioner provided all requested documentation during the allotted timeframe. The Order of Remand also directed the ALJ to return the matter to Essex County if it was determined that all of the requested verifications had been submitted so that an eligibility determination could be established.

Nonetheless, the ALJ again failed to address the sole issue in this matter, which is whether Petitioner provided all required documentation needed to make an eligibility determination. Instead, the ALJ made determinations on other issues to include the following: 1) Petitioner did timely provide information to the Division, 2) Petitioner's failure to provide a QIT is not relevant or required and therefore, moot, 3) Petitioner's eligibility date should be November 1, 2022 and 4) that the Division failed to follow policy as outlined in Med Comm 15-08. Based on these findings, the ALJ concluded that the Division misinterpreted the law and applied the wrong analysis regarding review of Petitioner's VA pension. I disagree. Here, the undisputed evidence shows that Petitioner failed to provide the information requested to include a breakdown of the VA Pension letter showing what portion is attributable to aid and attendance, and statements that showed combined resources were

\$2,000 or below the resource level for MLTSS which remained outstanding when Petitioner's application was denied. R-1.

Respondent, in its exceptions dated December 12, 2023, explained that the request for a detailed letter from the VA was made pursuant to State directives set forth in the Medicaid Communications (Med-Com). The relevant provisions read in pertinent part:

Med Com 15-08

If the VA Award letter only contains a total benefit amount, and does not detail the type of benefit and/or provide UME information, the applicant must provide the detailed benefits breakdowns, including UME information, in order to determine if the VA benefits affects eligibility. This detail is crucial for determining if the pension is countable income or if it is excluded in whole, or in part, when calculating program eligibility.

Med Com 12-09

Due to the recent clarifications of the VA methods of determining varying VA benefit categories, it is necessary to obtain an in depth VA Award Letter detailing the benefit(s) the applicant is eligible to receive and specifically indicating the dollar amount of the portion of each benefit that is classified for categories such as but not limited to "Aid and Attendance", "Improved Pension", "Widow Pension", "Dependent Pension", "Housebound Care" or "Educational" benefits.

While it is unclear from the record whether Petitioner has subsequently established and funded the requested QIT, Essex County reported that Petitioner's combined income for 2022 was \$3,463.00 which included a stipend of \$2,145.10 for social security and \$1,318.00 for Petitioner's VA Pension.² As of January 5, 2023, Petitioner's M & T bank account showed a balance of \$5,374.35 which is over the resource limit of \$2,000.00 for MLTSS. Moreover, while Respondent acknowledges that the income directly related to Aid and Attendance would be excluded in determining Medicaid eligibility, this information is needed to determine the amount of contribution that will be needed for the cost of care.

² Respondent incorrectly reported Petitioner's combined income for 2022 as \$3,463.00. This reported calculation was off by ten cents and the correct total should be \$3,463.10.

Accordingly, for the reasons set forth above, I hereby REVERSE the Initial Decision and FIND that Essex County's denial of Petitioner's February 2023 application due to her failure to provide requested verifications was appropriate.

THEREFORE, it is on this 6th day of MARCH 2024

ORDERED:

That the Initial Decision is hereby REVERSED as set forth herein.



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