

Hearing was held on September 11, 2023, and an Initial Decision was entered on December 13, 2023, affirming Atlantic County's denial of Petitioner's application.

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).

In the present matter, Petitioner, through their Designated Authorized Representative (DAR), filed a second Medicaid application for Petitioner.¹ ID at 11. After reviewing the application, Atlantic County mailed a Request for Information letter to the DAR for Petitioner on November 9, 2022. ID at 12. On November 30, 2022, a second

¹ The first Medicaid application was denied for failure to provide verifications. ID at 11.

Request for Information letter was mailed to the DAR. Ibid. Both the first and second letters contained a variety of items that were eventually provided before the December 14, 2022 deadline that was listed in the second letter. Ibid. Requested in both of the letters were documents related to a Bank of America account ending in #8144. Ibid. On December 7, 2022, the DAR provided some of the bank statements for the Bank of America account, which was in the name of "Top-Gun Affiliate Marketing LLC." Ibid. This was the first time that the County became aware that Petitioner owned a business. Ibid. On the date of the deadline listed in the second Request for Information letter, December 14, 2022, at 6:10 p.m., the DAR emailed the remaining Bank of America documents. Ibid. The County emailed the DAR on December 15, 2022, at 9:34 a.m., "Rivka, As informed you earlier, we have not received details of Business close out with supporting documents. If this item not received by due date case will be sent to reviewer for denial." ID at 13. The second application was denied on December 20, 2022, for failure to provide verifications. Ibid. All verifications listed in both Request for Information letters had been provided to the County by the December 14, 2022 due date. ID at 12. Atlantic County had not received the requested documentation regarding the status of the business or a business appraisal to determine if Petitioner was resource-eligible for Medicaid, which had been discussed in emails between the DAR and the caseworker. ID at 13.

The Initial Decision found that because the business account was never disclosed by Petitioner in either the first or second Medicaid application as was required, Petitioner did not meet the exceptional circumstances standard articulated in N.J.A.C. 10:71-2.3(c), which would have allowed for an extension of the deadline. ID at 15. Therefore, the Administrative Law Judge concluded that Petitioner failed to timely provide the necessary verifications regarding the business close-out information and appraisal which were necessary for the County to determine resource-eligibility for Medicaid benefits. ID at 16.

Petitioner filed exceptions to the Initial Decision. In summary, Petitioner takes exception to the Administrative Law Judge's 1) factual finding² that the DAR was aware on her own that a business appraisal was required because the DAR is experienced in handling Medicaid applications, 2) legal conclusion that the County was not required to give the DAR a reasonable amount of time to provide the information related to the business, 3) determination that the County was not bound to assist Petitioner and give Petitioner additional time to provide the requested business information because Petitioner did not disclose the business account in either the first or second applications, 4) determination that the 45 day timeframe for applications should not have been extended in this case, and 5) the reasonableness of the County's request for a business appraisal, which can be prohibitively expensive, when the County could have accepted an attestation from Petitioner or the DAR³.

I FIND that Atlantic County properly denied Petitioner's application for failing to provide verifications necessary to determine Petitioner's eligibility for Medicaid. It is clearly indicated in the application that Petitioner is obligated to disclose all assets. Petitioner failed to disclose information related to the business in both the first and the second application that were filed with Atlantic County. Additionally, bank statements for account #8144 were requested in the first Request for Information letter and had to be requested in a second Request for Information letter before they were provided, which finally disclosed to Atlantic County the existence of Petitioner's business. Petitioner argued that Atlantic County requested information regarding the business only one day before the deadline. ID at 15. Had Petitioner 1) informed Atlantic County of the existence

² This comment is located in the "Discussion" section of the Initial Decision as opposed to the "Finding of Fact" section that immediately follows it and is a discussion on the credibility of the witness.

³ Petitioner's Exceptions cite to 42 C.F.R. 435.945(a) which states the agency "may" accept an attestation. There is no requirement for an agency to accept an attestation and therefore they have discretion to request further documentary proof on a case-by-case basis. Here, Petitioner failed to disclose the business on both the first and second application and therefore Atlantic County requiring documentary proof is clearly reasonable.

of the business in the application as required, or 2) responded to the first Request for Information letter in a timely manner, Atlantic County would not have become aware of the business days before the deadline stated in the second Request for Information letter. Petitioner's failure to disclose the existence of the business in the application prevented Atlantic County from making a timely eligibility determination pursuant to N.J.A.C. 10:71-2.3(a) and 42 CFR § 435.912. Additionally, there is no indication in the record that Petitioner was unable to assist the DAR throughout the process.

Based on the above, I agree with the Initial Decision that exceptional circumstances did not exist to warrant the extension of the deadline pursuant to N.J.A.C. 10:71-2.3(c).

Thus, based on the record before me and for the reasons enumerated above, I hereby ADOPT the Initial Decision and FIND that the denial of Petitioner's application was appropriate.

THEREFORE, it is on this 12th day of MARCH, 2024,

ORDERED:

That the Initial Decision is hereby ADOPTED.



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