

is November 21, 2014, in accordance with N.J.S.A. 52:14B-10 which requires an Agency Head to adopt, reject or modify the Initial Decision within 45 days of receipt. The Initial Decision was received on October 7, 2014.

This matter concerns the July 2014 denial of Petitioner's Medicaid application due to the failure to provide requested verifications. On February 13, 2014, Petitioner filed an application for Medicaid benefits. On March 5, 2014, Cape May County Board of Social Services (CMCBSS) issued to Petitioner, through his power of attorney, A.B., a request for verifications. On April 4, 2014, A.B. requested an extension of time, until April 8, 2014, to provide CMCBSS with the requested documentation. On April 8, 2014, A.B. provided CMCBSS with a partial response to its request. On July 10, 2014, the application was denied for failure to timely provide verifications and because the available information showed Petitioner exceeded the resource standards for Medicaid.

Based on my review of the record and the applicable rules, I REVERSE the Initial Decision and FIND that Petitioner has not demonstrated by a preponderance of credible evidence that he timely provided all verifications necessary for CMCBSS to make a determination. A finding of fact based on hearsay must be supported by competent evidence. N.J.A.C. 1:1-15.5(b), the **residuum rule**, requires "some legally competent evidence" to exist "to an extent sufficient to provide assurances of reliability and to avoid the fact or appearance of arbitrariness." At the hearing A.B., presented testimony that she provided all of the documents requested by the CMCBSS and presented five years of statements from the Police and Fire Federal Credit Union. However, A.B. did not

testify as to whether she provided these documents prior to the denial, after the denial or just prior to the hearing. There is no documentary evidence to support her claims that she timely provided all of the documentation to the CMCBSS. Moreover, her testimony contradicts the documentary evidence she did provide. Specifically, the August 26, 2014 letter from the Fire and Police Federal Credit Union is dated more than a month after CMCBSS issued the denial letter to Petitioner, making it impossible for the Petitioner to have timely complied with CMCBSS' request. In addition, the letter verification is limited to open accounts as of August 26, 2014. It does not, as requested by CMCBSS, provide any information regarding Petitioner's account history during the five-year look back; again making it impossible for Petitioner to have provided CMCBSS with all requested verifications. Thus, I FIND that Petitioner has not presented any legally competent evidence to demonstrate that she timely and completely responded to the March 5, 2014 request for verifications.

The rules provide that Petitioner's Medicaid application must be processed within 90 days of filing. N.J.A.C. 10:71-2.3(a). Under Medicaid Communication No. 10-09, the time frame may be extended when "documented exceptional circumstances arise." CMCBSS timely processed the application, issuing its request for information by March 5, 2014 and its denial notice on July 10, 2014. There is nothing in the record to demonstrate exceptional circumstances. Petitioner is in a nursing facility, but he is represented by his granddaughter and power of attorney, A.B. There is no evidence that Petitioner had limited access to his records; that circumstances made it difficult to respond

to CMCBSS' request or that A.B. requested additional time beyond April 8, 2014 to provide documentation. Such evidence would contradict A.B.'s testimony that she fully complied with CMCBSS' request. Nonetheless, it cannot be held that CMCBSS should have afforded the Petitioner additional time when Petitioner failed to make them aware additional time was necessary.

Finally, the ALJ references Petitioner's first Medicaid application which was terminated in September 2013. The time to appeal this termination would have expired on October 10, 2013. Petitioner never appealed this termination. Accordingly, it is not the subject of the current matter. Yet, the ALJ allowed A.B. to testify to the facts of that case, admonished CMCBSS for not being prepared to address the underlying facts of that application and tried to use their unpreparedness as a justification to reinstate Petitioner to his original eligibility date of September 1, 2013. The termination of Petitioner's first Medicaid application was not transmitted to the OAL and that is not the subject of this appeal. It is Petitioner's failure to timely supply information requested by the CMCBSS with regard to his second Medicaid application that is at issue here. N.J.A.C. 10:71-2.2(e).

I FIND that the credible evidence in the record demonstrates that Petitioner failed to provide the needed information prior to the July 10, 2014 denial of benefits. Without this information, CMCBSS was unable to complete its eligibility determination and the denial was appropriate.

THEREFORE, it is on this 14th day of NOVEMBER 2014,

ORDERED:

That the Initial Decision is hereby REVERSED. Petitioner's Medicaid application was properly denied for failure to timely provide necessary verification.

A handwritten signature in black ink, appearing to read "Valerie J. Harr", written over a horizontal line.

Valerie J. Harr, Director
Division of Medical Assistance
and Health Services