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DEPARTMENT OF HUMAN SERVICES
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Commissioner

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Assistant Commissioner

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

M.B.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE
AND HEALTH SERVICES AND
CAMDEN COUNTY BOARD
OF SOCIAL SERVICES,
RESPONDENTS.

ADMINISTRATIVE ACTION

ORDER OF RETURN

OAL DKT. NO. HMA 05605-23

As Assistant Commissioner for the Division of Medical Assistance and Health Services, I have reviewed the record in this case, including the Initial Decision, the Office of Administrative Law (OAL) case file, and the documents filed below. Neither party filed exceptions in this matter. Procedurally, the time period for the Agency Head to render a Final Agency Decision is January 18, 2024, in accordance with an Order of Extension.

This matter arises from the Camden County Board of Social Services' (Board) May 25, 2023 denial of Petitioner's Medicaid application for failure to provide information

necessary to determine eligibility. The issue presented here is whether Petitioner provided the necessary verification for the Board to make an eligibility determination.

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. An applicant 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). 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. 10:72-2.2 (c) and (d). The CWA must determine eligibility of an application for the aged in 45 days and for blind and disabled applicants within 90 days. N.J.A.C. 10:71-2.3(a); MedComm No.10-09, and 42 CFR 435.91. Medicaid Communication No. 10-09 states:

If additional verifications are needed and the applicant or their representative does not respond to the worker's request after a time period, as specified by the Agency, an additional request for information must be sent informing the applicant of what documentation is still needed in order to determine their eligibility. This letter will also inform the applicant or their representative that if the information is not received within the specified time period from the receipt of the request, the case will be denied.

Here, on February 28, 2023, Petitioner, through their Designated Authorized Representative (DAR), applied for Medicaid benefits with the Board. (R-1). On March 16, 2023, the Board requested additional information to process the application. The documentation needed to be provided by March 30, 2023. (R-3; P-A.) Petitioner's DAR provided an email response indicating that the requested documents were attached on March 29, 2023. (R-4.) By letter dated April 24, 2023, the Board again requested

verification of various information related to Petitioner, including documentation regarding the proof of a foreign pension for 2023 and a deposit in the amount of \$2672.00 into Bank of America (BOA) account ending in #6920 on December 22, 2022, asking for the information to be returned by May 8, 2023. (R-5.) The letter was sent by ordinary mail and was received by Petitioner's DAR on May 1, 2023. (R-5; P-B; P-C). Petitioner's DAR requested an extension on May 1, 2023; that request was denied by the Board because the extension was requested before the due date and the Board could "not grant an exception at this time.". (P-C.) On May 8, 2023, the DAR provided an email reply with attached documentation to the Agency, in response to the request for additional information letter on April 24, 2023, and explained the deficiency surrounding the Foreign (UK) Pension. (R-6; P-D.) On May 25, 2023, Petitioner's application was denied for failure to provide the requested information. (R-7.) Petitioner requested a fair hearing and the matter was transmitted to the Office of Administrative Law (OAL) as a contested case on June 23, 2023.

The Initial Decision in this matter reversed the denial of Petitioner's application. The Administrative Law Judge (ALJ) found that Petitioner complied with the Board's request for additional verification. Based upon my review of the record, I hereby ADOPT the findings and conclusions of the ALJ.

Here, the Board requested additional verifications concerning the UK pension for 2023 and a deposit of \$2,672.00 into Petitioner's Bank of America checking account on December 22, 2022. When the Board requested the verification of the UK pension for 2023, Petitioner could not obtain it because the UK Pensioner's cost-of-living adjustment (COLA) information is updated on April 1st of each year. The UK Pension Authority usually mails the updated notice to Petitioner's home. However, Petitioner had moved to the Assisted Living facility and their home had been sold in May of 2022. While the person

arranged for mail forwarding with the post office, the Pension notice had not been received for the 2023 calendar year. The online portal for UK pensions is not available to pensioners living outside of the UK because the online system does not recognize foreign mailing addresses to register an account. Petitioner's DAR obtained the Pension notice for 2023 with the assistance of the U.S. Consulate and the Postal Inspector on July 7, 2023.

During the hearing, the Board's representative testified that the Board had Petitioner's UK pension information for 2022 and now the Board understands that there was no new COLA information available when Petitioner submitted their Medicaid application in 2023. The Board had the UK pension statement from January of 2022. (R-6 at 1.)

Regarding a deposit verification, on May 8, 2023, Petitioner's DAR provided the Board with the receipt Petitioner received from BOA when they liquidated twenty-five (25) EE bonds worth \$100.00 each on December 20, 2022. The receipt indicated the number of EE bonds being liquidated, the date of liquidation, and Petitioner's BOA checking account number where those funds were to be deposited. The Board never notified Petitioner's DAR that this information was insufficient until just prior to the initial hearing on July 27, 2023. On July 26, 2023, The Board informed Petitioner's DAR that copies of the physical bonds were required. On July 27, 2023, Petitioner's DAR obtained the images of the EE bond deposit.

The record establishes that Petitioner's DAR made substantial and repeated efforts to acquire the requested documentation and kept in ongoing communication with the Board. While the Board cannot keep a case opened indefinitely pending the submission of the requested documentation, the record does not show that the Board advised the DAR of an extended deadline for submission of the documentation, after she

requested an extension to provide the documentation. Given the unique circumstances in this case, the failure to provide the documentation by the timeframe set by the Board cannot be attributed to any fault of Petitioner or her DAR. In fact, the circumstances of this case show that the delay in obtaining the current U.K. pension was wholly outside the control of Petitioner and their DAR.

Additionally, on the basis of the facts set forth above, I conclude that there was ambiguity in the request for verification of the \$2.672.00. The Board did not explain specifically that they were seeking a copy of the physical bonds.

Accordingly, I concur with the Initial Decision's determination that Petitioner's DAR made attempts to timely comply with all of the requests made by the Board and that their good faith effort to secure and submit the documentation, coupled with the unique circumstances of this situation, as specifically documented by Petitioner's DAR, constituted exceptional circumstances that justified an extension of time in this matter, pursuant to N.J.A.C. 10:71-2.3(c).

Thus, for the reasons set forth above and those contained in the Initial Decision, I hereby ADOPT the Initial Decision's conclusion that the Board's denial of Petitioner's application be reversed and as such, I am RETURNING this matter to the Board to determine whether Petitioner established eligibility.

THEREFORE, it is on this 18th day of January 2024,

ORDERED:

That the Initial Decision is hereby ADOPTED.

carol grant OBO
Jennifer Langer Jacobs

Digitally signed by carol grant
OBO Jennifer Langer Jacobs
Date: 2024.01.16 15:56:30 -05'00'

Jennifer Langer Jacobs, Assistant Commissioner

Division of Medical Assistance and Health Services