



State of New Jersey

DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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KIM GUADAGNO
Lt. Governor

MEGHAN DAVEY
Director

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

C.F.J.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE

AND HEALTH SERVICES AND

HUDSON COUNTY BOARD

OF SOCIAL SERVICES,

RESPONDENTS.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 06589-16

As Director of the Division of Medical Assistance and Health Services, I have reviewed the record in this matter, consisting of the Initial Decision, the documents in evidence and the entire contents of the OAL case file. Respondent filed exceptions to the Initial Decision. Procedurally, the time period for the Agency Head to render a Final Agency Decision is May 1, 2017, in accordance with an Order of Extension. The Initial Decision was received on January 31, 2017.

The issue below was whether Petitioner timely provided the necessary verifications for Hudson County Board of Social Services (Hudson County) 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. 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). Applicants must provide the CWA with verification requested. N.J.A.C. 10:71-2.2 (e) provides:

As a participant in the application process, an applicant shall:

1. Complete, with assistance from the CWA if needed, any forms required by the CWA as a part of the application process;
2. Assist the CWA in securing evidence that corroborates his or her statements; and
3. Report promptly any change affecting his or her circumstances.

[Emphasis supplied].

N.J.A.C. 10:71-3.1(b) requires the applicant to substantiate her application with corroborative evidence from pertinent sources in support of her application for eligibility.

Despite these provisions, the ALJ placed the burden of establishing Petitioner's eligibility on the CWA. The ALJ found that the Hudson County caseworker had the obligation to obtain Petitioner's Direct Express statements via AVS and PARIS pursuant to 42 CFR §435.945. However, New Jersey's AVS

system was not implemented until July 2016.¹ Moreover, there is some question as to whether or not the information sought, specifically Direct Express statements, would even be available through the AVS system. According to the Direct Express website, the right to Financial Privacy Act prohibits the Federal Government from requesting information from Direct Express about an individual's account, and Direct Express is prohibited from giving the government an individual's account information without her permission.² Certainly, however, Petitioner would be able to access her statements and provide them to Hudson County. Nevertheless, written attempts to obtain this information do not appear in the record until June 4, 2015.³

Additionally, even if the CWA was required to, and had been able to, obtain petitioner's Direct Express statements electronically, only Petitioner could provide explanations of the transactions on those statements. A bank statement would show the date and amount of a deposit or withdrawal, but would not tell the agency anything about where the money had come from or gone to. Both of these facts are essential for verifying Petitioner's eligibility.

CWAs must determine eligibility for Aged cases within 45 days and Blind and Disabled cases within 90 days. N.J.A.C. 10:71-2.3(a); MedCom No. 10-09, and Fed. Reg. 42 CFR § 435.91. The time frame 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 regulation does not require Hudson County to grant an extension beyond the

¹ See NJ Family Care 1115 Comprehensive Demonstration Application for Renewal at http://www.nj.gov/humanservices/dmahs/home/NJ_Comprehensive_Waiver_Renewal_for_public_comments.pdf.

² See Direct Express website at <https://www.usdirectexpress.com/faq.html#section7>.

³ The first documented attempt to obtain the Direct Express scripts did not occur until after Petitioner had submitted its' motion for summary decision.

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. vs. DMAHS and Bergen County Board of Social Services, No. A-5911-10 (App. Div. February 22, 2013).

There is simply nothing in the record to demonstrate that there were exceptional circumstances warranting additional time to provide the requested verifications. Petitioner filed Medicaid applications in August 2014 and in March 2015. Hudson County issued requests for verifications, including Direct Express statements, in September 2014 and February 2015. Despite these requests, Petitioner did not request the missing Direct Express statements until June 4, 2015 and the statements were not obtained until June 24, 2015.


The credible evidence in the record indicates that Petitioner failed to provide the needed information prior to either the October 3, 2014 or the March 4, 2015 denial of benefits. Without this information, the Hudson County was unable to complete its eligibility determination and the denial was appropriate.

Based on my review of the record and for the reasons set forth above, I hereby REVERSE the Initial Decision and reinstate Hudson County's denial.

THEREFORE, it is on this 27th day of APRIL 2017,

ORDERED:

That the Initial Decision is hereby REVERSED.


Meghan Davey, Director
Division of Medical Assistance
and Health Services