



State of New Jersey

DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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MEGHAN DAVEY
Director

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

W.S.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE

AND HEALTH SERVICES AND

ATLANTIC COUNTY BOARD OF

SOCIAL SERVICES,

RESPONDENTS.

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ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 11145-16

As Director of the Division of Medical Assistance and Health Services, I have reviewed the record in this case, including the Initial Decision, the case file and the documents in evidence. Respondent filed exceptions. Procedurally, the time period for the Agency Head to file a Final Agency Decision in this matter is January 19, 2017 in accordance with an Order of Extension. The Initial Decision was received on October 21, 2016.

This matter concerns the denial of Petitioner's February 2016 application for Medicaid benefits. Jannell Thomas from Petitioner's nursing home (Hammonton Center) was named as Petitioner's Designated Authorized Representative (DAR) on January 25, 2016 and filed the Medicaid application with the Atlantic County Board of Social Services (ACBSS). This was Petitioner's fourth Medicaid application.¹ On April 27, 2016 and again on June 2, 2016, ACBSS requested that Petitioner provide ING account statements from February 2010 to present. This information had been requested at the time of Petitioner's first Medicaid application on February 5, 2015. As part of his fourth application, Petitioner was given until June 20, 2016 to provide the missing information. Petitioner did not provide the requested documentation and on June 21, 2016, ACBSS denied Petitioner's Medicaid application.

The issue below was whether Petitioner timely provided the necessary verifications for ACBSS 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. 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 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

¹ Petitioner's other applications were filed on February 5, 2015, May 18, 2015 and November 12, 2015.

applicants of eligibility or ineligibility. N.J.A.C. 10:71-2.2(c) and (d). 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 ACBSS to 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. 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.

The Initial Decision determined that the Petitioner’s application was improperly denied and noted that Petitioner expressed difficulty in obtaining the documentation on March 17, 2016 and again on June 20, 2016. He also noted that Petitioner’s inability to obtain the documents until after the hearing supported an extension of time due to circumstances outside of Petitioner’s control. I do not agree.

This was Petitioner’s fourth application for Medicaid within a year. The ING account statements were initially requested in connection with Petitioner’s first Medicaid application almost a year prior. Petitioner’s DAR engaged an attorney to act on behalf of the Hammonton Center with regard to Petitioner’s Medicaid application at least as early as November 2015. The documentation

provided shows that Hammonton's attorney made two requests, one on December 10, 2015 and one on January 6, 2016, to Voya for the ING statements. These were both made prior to the fourth Medicaid application. Petitioner provided FAX transmission status reports for both of these dates. Additional attempts in March, May and June are not supported by transmission status reports or testimony. The remaining attempts in August and September are also unsupported and occur after the June 21, 2016 denial.²

ACBSS made two requests for the ING account statements in connection with Petitioner's fourth Medicaid application. With the first on April 27, 2016 and the second on June 2, 2016, Petitioner was given a total of 55 days to provide the necessary information. Furthermore, ACBSS initially requested the ING statements in connection with Petitioner's first Medicaid application a year prior on February 19, 2015. Consequently, Petitioner had 488 days to provide the ING statements requested by ACBSS. In either event, well beyond the 45 days permitted by N.J.A.C. 10:71-2.3(a).

Moreover, in the request for an extension of time, Petitioner did not indicate how much more time would be needed to obtain the information. Based on Petitioner's post hearing submission, they were unable to obtain the information until October 2016; 594 days after the initial request and approximately 160 days from the April 27, 2016 request. The record does not support exceptional circumstances warranting time beyond the year and a half Petitioner already had to obtain these ING statements. ACBSS could not be expected to leave Petitioner's fourth Medicaid application open indefinitely.

² Petitioner provided no witnesses or testimony at the fair hearing regarding efforts to obtain documents.

ACBSS clearly requested information on Petitioner's ING account which Petitioner and her DAR failed to provide until long after the case was denied.

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

THEREFORE, it is on this ^{17th} day of JANUARY 2017,

ORDERED:

That the Initial Decision is hereby REVERSED.



Meghan Davey, Director
Division of Medical Assistance
and Health Services