

specific inquiries regarding Vanguard transactions. Petitioner's representative had difficulty fulfilling this request as COVID-19 restrictions prevented in person meetings necessary to meet Vanguard's requirements to release the requested information. On May 7 and May 8, 2020, Petitioner's representative communicated to a MCBSS representative that the restrictions were being lifted and she would be able to meet with Petitioner to fulfill the request. As a result, she requested that the application remain open and she be given an opportunity to provide the verifications. The MCBSS case manager recommended that the application remain open, but provided no clear date by which the documents were due. The application was denied a little more than 10 days later on May 22, 2020.

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). MCBSS as the County Welfare Agency (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 and 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 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. However, 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 MCBSS 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).

The request for verifications of specific Vanguard distributions was made in April 2020. At that time, many New Jersey nursing facilities were restricting visitors due to the COVID-19 pandemic. Petitioner's representative's last communication with MCBSS prior to the May 2020 denial informed the CWA that the nursing facility in which Petitioner resided was lifting restrictions which would enable them to obtain the information required. While the Petitioner's application could not be left open indefinitely, it would not be unreasonable to grant an extension under these circumstances.

Therefore, based on the unique facts and circumstances of this case, I hereby ADOPT the Initial Decision. This Final Agency Decision should not be construed as making any findings regarding Petitioner's eligibility.

THEREFORE, it is on this 25th day of APRIL, 2021,

ORDERED:

That the Initial Decision is hereby ADOPTED;

That this matter is returned to the MCBSS to determine Petitioner's eligibility in accordance with this Final Agency Decision.



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