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APPROVAL OF THE APPELLATE DIVISION**

This opinion shall not "constitute precedent or be binding upon any court." Although it is posted on the internet, this opinion is binding only on the parties in the case and its use in other cases is limited. R. 1:36-3.

**SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-2630-21**

P.C.,¹

Petitioner-Appellant,

v.

**MORRIS COUNTY
DEPARTMENT OF
FAMILY SERVICES,**

Respondent-Respondent.

Submitted October 3, 2023 – Decided October 26, 2023

Before Judges Sumners and Perez Friscia.

On appeal from the New Jersey Department of Human Services, Division of Medical Assistance and Health Services.

The Murray Law Firm, LLC, attorneys for appellant (Robert J. Murray, on the briefs).

Matthew J. Platkin, Attorney General, attorney for respondent (Melissa H. Raksa, Assistant Attorney

¹ We use initials to preserve the confidentiality of these proceedings. R. 1:38-3(c)(9).

General, of counsel; Elizabeth M. Tingley, Deputy Attorney General, on the brief).

PER CURIAM

P.C. appeals from the March 18, 2022 final agency decision of the Assistant Commissioner of the Division of Medical Assistance and Health Services (Division), which affirmed the Morris County Office of Temporary Assistance's (County) denial of P.C.'s Medicaid benefits. After a review of the record and applicable law, we affirm.

I.

On January 26, 2021, P.C.'s counsel filed an application for Medicaid benefits with the County under the New Jersey FamilyCare Aged, Blind, Disabled Program. On February 9, 2021, in furtherance of P.C.'s application, the County by letter requested that she provide several eligibility verification documents, which she timely provided.

On February 25, 2021, the County sent P.C. a second verification request seeking additional documentation relating to: (1) a 2021 health insurance statement, (2) the 2020 sale of a house, and (3) verification for various bank accounts, including a Fidelity Investments account. Specifically, the Fidelity account verification documentation requested was as follows:

7. Please provide statement for Fidelity [account] . . . from 01/26/2016 to 01/31/2021. Please also provide verification for any transactions for the amount of \$2,000 and over. Verification must include copies of deposit slips and deposit check images, copies of withdrawal receipts, slips, invoices, etc, and copies of check receipts, check images, etc.

On June 3, 2021, the County sent P.C. a third verification request. The letter stated: "Failure to provide the requested information and documentation within [ten] calendar days from the date of this letter may result in a denial of your application" and again requested documentation relating to the Fidelity account. The County requested the following verification records for the Fidelity account:

Please also provide verification for any transactions for the amount of \$2,000 and over. Verification must [include] copies of withdrawal receipts, slips, invoices, etc, and copies of check receipts, check images, etc.

A. Bank statement from 04/01/2018 to 06/01/2021. If the account was closed, please provide a letter from the bank stating so.

B. Withdrawal on 05/04/2016 for \$ 6,500

C. Withdrawal on 01/25/2017 for [\$] 2,200

On June 11, 2021, P.C.'s counsel emailed the County in response to the third verification request and provided the County with most of "the requested documents per the letter." Additionally, P.C.'s counsel stated they were "working with Fidelity to obtain statements from April 2018-February 2019"

and that "Fidelity [had] purged [the] account from their system" so P.C. had to "provide a letter of instruction with the information needed to be processed through a different department within Fidelity."

On July 12, 2021, one month after the provided June 13, 2021 submission deadline, P.C.'s counsel sent a letter to Fidelity seeking: account statements for the Fidelity account from April 2018 until February 2019; a transaction report for the May 4, 2016 withdrawal; a transaction report for the January 25, 2017 withdrawal; and a letter confirming the account was closed. The letter advised Fidelity that a "request is hereby made that you treat this request as urgent and provide the information requested above no later than July 28, 2021."

On August 9, 2021, as the County had not received any further communications from P.C., it mailed a "Retroactive Notice of Eligibility" to P.C.'s counsel advising P.C. was "determined ineligible" for Medicaid benefits for the months of October 2020 through December 2020. The County determined that P.C. failed to provide verification for a Chase account and the Fidelity account, including "[a] letter from the bank stating . . . the account was closed." The County advised P.C. that she could seek to "provide sufficient information to rebut [the] denial" and she could request a fair hearing within twenty days of the date of the letter.

Two days after the denial, on August 11, 2021, Fidelity sent P.C.'s counsel a letter that confirmed the Fidelity account was closed on February 12, 2018. On August 13, 2021, two months after the June 13, 2021 deadline, P.C.'s counsel emailed a copy of the Fidelity letter to the County and stated, "Please see the attached letter from [F]idelity, there are no additional statements to be provided."

P.C. sought a fair hearing, and the Division transmitted the matter to the Office of Administrative Law on August 30, 2021. At argument before the Administrative Law Judge (ALJ), the County conceded "the only documentation that was not provided prior to its denial was information contained in the August 11, 2021 letter from Fidelity." The ALJ reversed the County's denial, finding P.C. acted in good faith to provide the documents requested and recommended the County's decision "must be reversed."

On March 18, 2022, the Assistant Commissioner for the Division issued a final agency decision, which rejected the ALJ's recommended reversal and affirmed the County's denial of the Medicaid application. The Assistant Commissioner noted that County requested on two separate occasions, February 25, 2021 and June 3, 2021, for P.C. "to provide information regarding her Fidelity account by June 13, 2021." The Assistant Commissioner stated that

despite the County's June 13, 2021 deadline, P.C. "made no specific request for an extension of time" and only requested that Fidelity "provide the requested documentation by July 28, 2021," a month after receiving the request. The Assistant Commissioner recognized the County held P.C.'s application open for "nearly two months after [her] June 11, 2021 email," and found the County "was not able to complete its eligibility determination and the August 9, 2021 denial was appropriate." The Assistant Commissioner concluded the record contained "no documented exceptional circumstance warranting an extension of time beyond the 195 days the application remained open." This appeal followed.

II.

"This court's review of [the Division's] determination is ordinarily limited." C.L. v. Div. of Med. Assistance & Health Services, 473 N.J. Super. 591, 597 (App. Div. 2022). "An administrative agency's decision will be upheld 'unless there is a clear showing that it is arbitrary, capricious, or unreasonable, or that it lacks fair support in the record.'" R.S. v. Div. of Med. Assistance & Health Servs., 434 N.J. Super. 250, 261 (App. Div. 2014) (quoting Russo v. Bd. of Trs., Police & Firemen's Ret. Sys., 206 N.J. 14, 27 (2011)). "The burden of demonstrating that the agency's action was arbitrary, capricious or unreasonable rests upon the [party] challenging the administrative action." E.S. v. Div. of

Med. Assistance & Health Servs., 412 N.J. Super. 340, 349 (App. Div. 2010) (alteration in original) (quoting In re Arenas, 385 N.J. Super. 440, 443-44 (App. Div. 2006)).

"Deference to an agency decision is particularly appropriate where interpretation of the [a]gency's own regulation is in issue." I.L. v. N.J. Dep't Hum. Servs., Div. of Med. Assistance & Health Servs., 389 N.J. Super. 354, 364 (App. Div. 2006). "Nevertheless, we are 'in no way bound by the agency's interpretation of a statute or its determination of a strictly legal issue.'" C.L., 473 N.J. Super. at 598 (quoting R.S., 434 N.J. Super. at 261). Moreover, "[i]f our review of the record shows that the agency's finding is clearly mistaken, the decision is not entitled to judicial deference." A.M. v. Monmouth Cnty. Bd. of Soc. Servs., 466 N.J. Super. 557, 565 (App. Div. 2021) (first citing H.K. v. N.J. Dep't of Hum. Servs., 184 N.J. 367, 386 (2005), then citing L.M. v. Div. of Med. Assistance & Health Servs., 140 N.J. 480, 490 (1995)). The same is true "where an agency rejects an ALJ's findings of fact." Ibid. (citing H.K., 184 N.J. at 384).

"Medicaid is a federally-created, state-implemented program that provides 'medical assistance to the poor at the expense of the public.'" Matter of Estate of Brown, 448 N.J. Super. 252, 256 (App. Div. 2017) (quoting Estate of DeMartino v. Div. of Med. Assistance & Health Servs., 373 N.J. Super. 210,

217 (App. Div. 2004)); see also 42 U.S.C. § 1396-1. To receive federal funding, the State must comply with all federal statutes and regulations. Harris v. McRae, 448 U.S. 297, 301 (1980).

Pursuant to the New Jersey Medical Assistance and Health Services Act, N.J.S.A. 30:4D-1 to -19.5, the Division is responsible for administering Medicaid in our State. N.J.S.A. 30:4D-4. The Division is required to manage the State's Medicaid program in a fiscally responsible manner. See Dougherty v. Dep't of Hum. Servs., Div. of Med. Assistance & Health Servs., 91 N.J. 1, 4-5, 10 (1982) (remanding back to the agency to consider the public interest and the "increasing social demands for limited public resources"). "[T]o be financially eligible, the applicant must meet both income and resource standards." Estate of Brown, 448 N.J. Super. at 257; see also N.J.A.C. 10:71-3.15; N.J.A.C. 10:71-1.2(a).

One of the objectives of Medicaid is to "provide[] medical assistance to needy persons who are institutionalized in nursing homes as [a] result of illness or other incapacity." R.S., 434 N.J. Super. at 258 (quoting M.E.F. v. A.B.F., 393 N.J. Super. 543, 545 (App. Div. 2007)). The local County Welfare Agency (CWA) "exercise[s] direct responsibility in the application process to . . . [r]eceive applications." N.J.A.C. 10:71-2.2(c)(2). CWA is defined as "that

agency of county government, that is charged with the responsibility for determining eligibility for public assistance programs, including [Aid to Families with Dependent Children]-Related Medicaid, Temporary Assistance to Needy Families (TANF), the Food Stamp Program, NJ FamilyCare and Medicaid." N.J.A.C. 10:71-2.1. The CWA is charged with evaluating an applicant's eligibility for Medicaid benefits. N.J.S.A. 30:4D-7a; N.J.A.C. 10:71-2.2(a); N.J.A.C. 10:71-3.15.

"The process of establishing eligibility involves a review of the application for completeness, consistency, and reasonableness." N.J.A.C. 10:71-2.9. Applicants must provide the CWA with specific verifications which are identified for the applicant. The CWA is responsible for assisting an applicant "in exploring their eligibility for assistance," N.J.A.C. 10:71-2.2(c)(3), and making known to the applicant "the appropriate resources and services both within the agency and the community, and, if necessary, assist in their use," N.J.A.C. 10:71-2.2(c)(4). The applicant is required to "complete, with the assistance from the CWA if needed, any forms required by the CWA as a part of the application process." N.J.A.C. 10:71-2.2(e)(1). While the applicant is "the primary source of information," the CWA is responsible for making "the determination of eligibility and to use secondary sources when necessary, with

the applicant's knowledge and consent." N.J.A.C. 10:71-1.6(a)(2). The applicant is responsible for cooperating fully with the verification process if the CWA has to contact the third-party in reference to verifying resources. N.J.A.C. 10:71-4.1(d)(3)(i). The agency may perform a collateral investigation to "verify, supplement or clarify essential information." N.J.A.C. 10:71-2.10(b).

Following a review of the record and applicable legal principles, we affirm the Assistant Commissioner's final agency decision. P.C.'s argument that she provided the County with all the requested verifications is without merit. The Assistant Commissioner correctly noted that P.C. "was asked on two occasions, in February and June 2021, to provide information regarding her Fidelity account." It is additionally undisputed that the County required P.C. to submit a letter from Fidelity by June 13, 2021; however, P.C. did not submit the letter until August 11, 2021—two months after the provided deadline and two days after the County denied her application.

P.C.'s contention that the Assistant Commissioner erred in finding she failed to effectively communicate with the County is also unavailing. The Assistant Commissioner observed that P.C.'s counsel "notified [the County] that . . . they were seeking additional documentation" on June 11, 2021, and thereafter "made no specific request of an extension" and did not notify the

County of her efforts to obtain the letter. P.C. was required to provide evidence that corroborated her self-attested statement regarding the Fidelity account, and though P.C. advised the County that she was seeking additional evidence, she did not timely provide the required verification documents for nearly two months. Therefore, the Assistant Commissioner's decision finding that "[w]ith no additional communications or documentation" from P.C. following her June 11, 2021 email, the County "was not able to complete its eligibility determination and the August 9, 2021 denial was appropriate" was not arbitrary, capricious, or unreasonable.

To the extent we have not addressed any of plaintiff's remaining arguments, they are without sufficient merit to warrant discussion in a written opinion. R. 2:11-3(e)(1)(E).

Affirmed.

I hereby certify that the foregoing
is a true copy of the original on
file in my office.


CLERK OF THE APPELLATE DIVISION