



entered on December 20, 2023, reversing Union County's denial of Petitioner's application.

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 circumstances. 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. 10:71-2.2(c) and (d). CWAs must determine eligibility for Aged cases within forty-five days and Blind and Disabled cases within ninety days. N.J.A.C. 10:71-2.3(a) and 42 CFR § 435.912. The timeframe 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 regulations do not require that the CWA 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. v. DMAHS and Bergen County Board of Social Services, No. A-5911-10 (App. Div. February 22, 2013).

In the present matter, after reviewing the application, on June 22, 2022, Union County sent a request for information letter to Petitioner asking for several items, including all pages from the "actual Supplemental Needs Trust document (all pages) including Schedule A," and "a written statement and supporting documentation, including, but not limited to, copies of checks, deposit slips, etc. which verify the source of verification of the

source of deposit of \$69,181.30 on January 17, 2014 for the UBS account (B.L. Trust).” ID at 2. On July 17, 2022, Union County denied Petitioner’s application for two reasons. Ibid. First, Union County stated that Petitioner failed to submit the “actual Supplemental Needs Trust document (all pages) including Schedule A.” The second reason was because Petitioner’s failure to submit “verification of the source of deposit of \$69,181.30 on January 17, 2014 for the UBS account (B.L. Trust).” Ibid. Union County went on to state:

The actual trust document and verifications of the initial deposit of \$69,181.30 are required in order to determine if the trust is Medicaid compliant. The submitted UBS statements are not sufficient. A copy of the check is also required to determine the source of these funds. Therefore, B.L.’s application for the MLTSS Nursing Home program has been denied effective 7/19/2022 for failure to provide requested documentation.  
ID at 3 and R-2.

The Initial Decision found that Union County’s request for information letter made it clear that they did not understand the difference between a testamentary trust and a stand-alone trust that would have been established by way of a separate and distinct trust document. Ibid. A Schedule A is typically attached to a stand-alone trust document and identifies the amount and the source of funds used to establish the trust. Ibid. In a testamentary trust, the trust is created by the estate of the decedent and therefore there is no Schedule A. Ibid. The amount of the trust can only be determined directly from the Last Will and Testament if the trust is funded by a specific monetary amount. Ibid. Petitioner’s trust document defined the amount as fifty percent of the estate, and the actual amount used to initially fund the Trust could not be determined until Petitioner’s estate was finalized. Ibid. Therefore, there was no Trust document other than the Will and no Schedule A to be provided to Union County. Ibid.

The Initial Decision goes on to state that during the Fair Hearing, Union County came to understand that there was no other trust document outside the Will, and that they had already been provided with the Will. Ibid. Union County maintained that it would still need proofs responsive to the second part of the request for information letter in order to grant Petitioner's application. Ibid.

The Initial Decision found that Petitioner's Designated Authorized Representative, Peter Jaques, Esq., fully responded to the second portion of the request for information letter by providing the Agency everything it asked for that existed at the time. ID at 2-3. Mr. Jaques, Esq.'s July 9, 2022 response to the letter provided copies of the UBS Bank Statement for the initial deposit of \$69,181.30 into the B.L. Trust account on January 17, 2014, from a single "non-local" check. ID at 3. In the accompanying statement from Mr. Jaques, Esq., he verified and confirmed the initial deposit "represented the distribution to the trust under the last will and testament of B.L.'s father, L.L." He also made the clear representation there were no other documents responsive to the request for documents which verify the source of the funds, except the initial bank statement described above. Ibid. Mr. Jaques, Esq. testified that the Trustee could not locate a copy of the initial check, that he requested a copy from UBS Bank, and was informed by the bank that it did not retain checks or deposit slips as far back as 2014. Ibid.

The Initial Decision holds that the statement provided by Mr. Jaques, Esq. in conjunction with the production of the opening bank statement for the Trust account showing a single deposit of \$69,81.30, was sufficient verification of the source of funds, since the bank does not retain copies of deposit checks going back that far. ID at 5.

The Initial Decision concluded that Union County's July 17, 2022 denial of benefits should be reversed and that the requested benefits should be granted. ID at 6.

I FIND that Union County improperly denied Petitioner's July 17, 2022 application for the reasons stated in the Initial Decision.

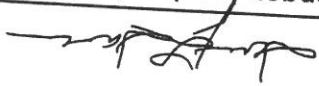
I REJECT the Initial Decision's findings that Petitioner established eligibility. As Union County denied Petitioner's application for failing to provide the documentation that was necessary to determine eligibility, an eligibility determination related to Petitioner's application would need to be completed prior to being determined.

I am RETURNING this matter to Union County to process Petitioner's application. If it is determined, after further review, that Petitioner's application should still be denied, Union County is directed to issue a determination letter with appeal rights that specifically sets forth the basis for the denial. Petitioner will then have the opportunity to appeal that determination through the fair hearing process.

THEREFORE, it is on this 19th day of MARCH, 2023,

ORDERED:

That the Initial Decision is hereby ADOPTED in part and REVERSED in part and the matter is RETURNED to Union County to process Petitioner's application in accordance with this decision.



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