



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

Division of Medical Assistance and Health

Services

P.O. Box 712

Trenton, NJ 08625-0712

SARAH ADELMAN
Commissioner

JENNIFER LANGER JACOBS
Assistant Commissioner

PHILIP D. MURPHY
Governor

TAHESHA L. WAY
Lt. Governor

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

C.M.,

PETITIONER,

v.

HORIZON NJ HEALTH,

RESPONDENTS.

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ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 03063-2023

As Assistant Commissioner of the Division of Medical Assistance and Health Services (DMAHS), I have reviewed the record in this case, including the Office of Administrative Law (OAL) case file and the Initial Decision approving the Stipulation of Dismissal reached by the parties. No exceptions were filed in this matter. Procedurally, the time period for the Agency Head to file a Final Agency Decision is February 26, 2024, in accordance with N.J.S.A. 52:14B-10, which requires an Agency Head to adopt, reject, or modify the Initial Decision within 45 days of receipt. The Initial Decision was received on January 11, 2024.

This matter arises from Horizon NJ Health's (Horizon) reduction of Petitioner's Personal Care Assistance (PCA) services to 13.08 hours per week. Petitioner appealed the

denial and the matter was transmitted to the OAL for a fair hearing.¹

On December 5, 2023, the OAL scheduled a plenary hearing in this matter on Zoom for Wednesday, January 3, 2024 at 1:00pm. The Initial Decision noted that Petitioner had previously advised the OAL that her availability was limited to Wednesday afternoons. Petitioner failed to appear at the scheduled hearing and the matter concluded at approximately 1:26 p.m. The Administrative Law Judge (ALJ) held the matter before taking any action, pursuant to N.J.A.C. 1:1-14.4(a), which states that “[i]f the [ALJ] does not receive an explanation for the nonappearance within one day, the [ALJ] shall . . . direct the Clerk to return the matter to the transmitting agency for appropriate disposition pursuant to N.J.A.C. 1:1-3.3(b) and (c).” The ALJ noted that Petitioner did not provide any explanation to the OAL for her nonappearance from January 3, 2024, the date of the hearing, through the date of issuance of the Initial Decision on January 11, 2024. Accordingly, the ALJ determined that the matter should be dismissed and the proceedings concluded as a result of Petitioner’s failure to appear at the scheduled hearing.

Based on my review of the record, I concur with the ALJ’s findings. Petitioner was advised, in writing on December 5, 2023, of the January 3, 2024 date. The hearing date was scheduled during the day and timeframe that Petitioner advised the OAL that she would be available. However, Petitioner failed to appear at the scheduled hearing, and she failed to offer any explanation regarding her nonappearance. Additionally, Petitioner did not submit any written exceptions to counter the ALJ’s findings, even though the Initial Decision specifically provided that

If the nonappearing party has a reason for failing to appear
and wishes to request that the hearing be rescheduled, that party
may file, within seven days from the date on which this

¹ While the Initial Decision discussed the history of this matter, including previous hearing dates and motions filed by Petitioner, they are not reiterated in this Decision. This Decision is limited solely to Petitioner’s failure to appear at the scheduled plenary hearing on January 5, 2024.

recommended decision was mailed to the parties, a written explanation of the reason for nonappearance with the **DIRECTOR OF THE DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES, Mail Code #3, PO Box 712, Trenton, New Jersey 08625-0712**, marked "Attention: Exceptions." A copy of any explanation must be sent to the judge and to the other parties.

ID at 6 (emphasis in original). Petitioner did not send in a written request to DMAHS to reopen this matter until February 8, 2024, twenty-eight days after the Initial Decision was issued and thirty-six days after the hearing was scheduled to occur.² I note that even if Petitioner's written request had been timely submitted, she failed to offer any explanation, in that submission or at any point since the Initial Decision was issued, as to why she failed to appear at the scheduled hearing in this matter, disregarding the Initial Decision's specific directive set forth above.

Based upon my review of the record and for the reasons set forth in the Initial Decision and herein, I hereby ADOPT the findings and conclusions of the ALJ. Accordingly, the Initial Decision of the OAL is ADOPTED as the Final Agency Decision in this matter.

² On January 29, 2024, Petitioner emailed the Transmitting Officer for DMAHS with a copy of a Medicaid application with the email subject "horizon request to reopen case." Petitioner did not advise as to why she was sending the application, and no written response was provided to Petitioner, as the matter was awaiting a Final Agency Decision. However, Petitioner contacted various DMAHS offices via telephone, and was advised that a Final Agency Decision was pending in this matter. On February 8, 2024, Petitioner copied the Transmitting Officer for DMAHS on an email to the OAL, wherein she advised the OAL "I have emailed what you told me i needed to, and no response from [the Transmitting Officer]'s office. I Need my case reopened. Please follow up with her, if you haven't." Aside from the January 29, 2024 email with a copy of the Medicaid application, there was no other written correspondence with DMAHS related to the dismissal of Petitioner's appeal. The Transmitting Officer advised Petitioner through reply email on February 8, 2024 that Petitioner needed to wait for a Final Agency Decision to be issued in this matter. As noted, Petitioner was also advised of this several times through various phone calls with DMAHS staff.

THEREFORE, it is on this 21st day of FEBRUARY 2024,

ORDERED:

That the Initial Decision dismissing the appeal in this matter is hereby ADOPTED.

Gregory Woods

OBO JLJ

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