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OFFICE OF APPEAL HEARINGS
DEPT OF CHILDREN & FAMILIES

STATE OF FLORIDA
DEPARTMENT OF CHILDREN AND FAMILIES
OFFICE OF APPEAL HEARINGS

APPEAL NO. 14F-00395

PETITIONER,

Vs.

CASE NO. 1372724711

FLORIDA DEPARTMENT OF
CHILDREN AND FAMILIES
CIRCUIT: 20 Collier
UNIT: 88287

RESPONDENT.
_______________________________/

FINAL ORDER

Pursuant to notice, the undersigned convened a telephonic administrative hearing in the above-referenced matter on April 4, 2014 at 2:20 p.m.

APPEARANCES

For the Petitioner: Elizabeth Most, petitioner's health care advocate

For the Respondent: Raymond Muraida, ACCESS senior human services program specialist

ISSUE

The petitioner is appealing the termination of Medicaid Program benefits.

PRELIMINARY STATEMENT

On January 15, 2014, the petitioner timely requested a hearing.

The petitioner not was present at the hearing. Witness for respondent appearing telephonically was Consevilla Martinez, operations service manager with the Division of Disability Determination.

The hearing scheduled for March 5, 2014, was rescheduled to April 4, 2012, for the petitioner' representative to provide authorization to represent the petitioner for the hearing.

The respondent presented seven exhibits which were accepted into evidence and marked as Respondent Exhibits "1" through "7", respectively. The record was left open for both parties to submit verification of the petitioner's status with her application for Social Security benefits. On April 11, 2014, the petitioner presented three exhibits which were accepted into evidence and marked as Petitioner Exhibits "1" through "3", respectively. On April 14, 2014, the respondent presented two exhibits which were accepted into evidence and marked as Respondent Exhibits "8" and "9", respectively. On May 8, 2014, the respondent presented one exhibit which was accepted into evidence and marked as Respondent Exhibits "10", and the record was closed.

FINDINGS OF FACT

1. The petitioner's date of birth is [redacted] The petitioner is 51 years old. The petitioner is not blind. The petitioner's has no minor dependent child residing with her.

2. In 2011, the petitioner applied for Social Security disability benefits. The Social Security Appeals Council denied the petitioner on January 28, 2014. On March

1, 2014, the petitioner received a notice from Social Security informing her that she was not eligible for disability benefits, as she did not work long enough under Social Security. On March 11, 2014, the petitioner applied for Supplemental Security Income (SSI) benefits. As of the date of this hearing, the petitioner's SSI application was pending, and no decision on the petitioner's disability was made of Social Security.

3. On June 17, 2011, the petitioner applied for Medicaid Program benefits. The petitioner was determined disabled by the Division of Disability Determination (DDD) effective May 2011. The respondent approved the petitioner's application for Medicaid Program benefits. The DDD set a disability review date of January 31, 2013.

4. On October 15, 2013, the petitioner reapplied for Medicaid Program benefits. As the petitioner was past due for a disability review, the respondent sent the case to the DDD.

5. The DDD considered information provided by the petitioner, and the medical records submitted by [redacted], M.D., the petitioner's treating physician, and [redacted] M.D., the petitioner's specialist, in their decision.

6. The petitioner was seen by Dr. [redacted] n regular follow-up office visits for chronic pain. The reports of the visits indicated an emergency room visit in December 2012 due to mouth sores, a carpal ligament tear to right wrist in April 2013, treatment for a bat bite, and an A1C of 6.7 percent. At each examination, Dr. F[redacted] indicated that the petitioner's face exam was normal. During the December 18, 2012 visit, a Patient Health Questionnaire was completed, using a scale of zero (no days) to three (nearly every day). The petitioner answered all questions, including question of little interest, depressed, problems sleeping, feeling tired, poor appetite, and trouble concentrating

with zero. She responded no difficulty at all with work, care of things at home, or getting along with other people, based on her impairments. The petitioner's weight was 172 pounds. A bone scan preformed on January 12, 2013 indicated increased uptake in both knees, likely due to degenerative joint disease. The last examination report submitted was for August 23, 2013. The petitioner answered "no" to the questions of current pain and chronic pain. The petitioner reported fatigue. The petitioner had normal motor strength. The petitioner's general appearance was well-nourished, well-hydrated and no acute distress. Dr. ndicated the petitioner's impairments, by past history, were hyperlipidemia, autoimmune disorder, depression, arthritis, chronic back pain, chronic headaches, lupus-like syndrome, anxiety disorder, fibromyalgia, chronic pain syndrome (opiate dependent), osteoarthritis both knees, bi-lateral knee replacement, adult ADD, bilateral carpal tunnel syndrome, elbow tendonitis, hypermobility syndrome, scapholunate dislocation (wrist), chronic rotator cuff bursitis, moderate median neuropathy, plantar fasciitis, and carpal tunnel syndrome. The petitioner's weight was 185 pounds.

7. Dr. submitted reports for the petitioner's office visits from July 6, 2012 through July 6, 2013. At each visit, Dr. ndicated that the petitioner was well nourished, well developed, in no apparent distress, no rash on skin, no clubbing or edema in the extremities, no synovitits or effusion in the musculoskeletal, and no instability noted. On July 8, 2013, his observations were positive for swelling of right wrist, bony palpation no tenderness, soft tissue palpation tender at the wrist joint and scapholunate junction, strength decreased secondary to pain, sensation intact all fingers, and normal pulses. His assessment was carpal ligament tear, plantar fasciitis,

chronic pain of wrist and foot, ankle sprain, osteoarthritis of knee status post joint replacement, carpal tunnel syndrome, and lupus. X-ray of right foot revealed normal foot without fractures, subluxations or malalignment.

8. On December 5, 2013, a Residual Functional Capacity Assessment was completed by Shakra Junejo, M.D. Dr. Junejo determined the petitioner's functional limitations of occasionally lift 20 pounds, frequently lift 10 pounds, stand and/or walk (with normal breaks) for about six hours, sit about six hours, and unlimited push and/or pull. There was a restriction for ladders. Dr. Junejo determined that the petitioner's residual functional capacity was reduced to accommodate her limitations.

9. The Case Analysis by DDD was as follows. The Review of the Activities of Daily Living included statements that the petitioner was not working; her past work history is wallpaper hanger; she does not see a mental health professional; she takes medication for her ADHD and OCD; she can take care of her own personal needs; she does not shop; she tries to do laundry and dishes; she enjoys watching television; her grandchildren come over after school; she drives when she has to, and swims at night. The DDD evaluated the petitioner in five steps:

1. The petitioner was not currently engaged in substantial gainful activity.
2. The petitioner's condition is severe.
3. The petitioner's impairments do not meet or medically equate a listing. Medical improvement is shown.
4. The petitioner is limited to light Residual Functional Capacity. The petitioner's past work is medium work. The petitioner is unable to return to past work.
5. The petitioner according to Vocational Rule 202.14, the petitioner is not disabled and is able to return to other light work.

10. The DDD written Conclusion was as follows. The petitioner has shown improvement based on knee replacement; normal motor strength, coordination and

neurological system, and information provided at the August 23, 2013 doctor visit. The petitioner has mild limitations in her activities of daily living. She can do some household chores, care for her grandchildren, swim in the pool, and make simple food items. The petitioner alleged OCD an ADHD; but there is no diagnosis by a mental health professional, nor is she seeing a mental health professional for treatment. The DDD determined that the petitioner's disability ceased December 6, 2013 and denied the petitioner's current request for disability. The denial code basis used was N32, non-pay - capacity for substantial gainful activity - other work, no visual impairment. The DDD returned the case to the respondent.

11. As the petitioner no longer met the criteria for disability, the respondent terminated the petitioner's Medicaid Program benefits. On December 10, 2013, the respondent sent the petitioner a Notice of Case Action denying her reapplication for Medicaid Program benefits, as she did not meet the disability requirement. The respondent determined that the petitioner was not eligible for Family-Related Medicaid Program benefits.

12. The petitioner's healthcare advocate asserted as follows for the petitioner. She last worked until 2002 or 2003. Her hyper-extended disorder is tearing her tendons. It is a progressive disease and her condition is deteriorating. She needs surgery for her carpal tunnel syndrome. She has had depression, ADHD and dyslexia for decades. She was taking chemotherapy for her lupus for three years. She can do nothing to make the lesions go away. She has flare-up with lesions on her face. She is hypersensitive to florescent light and sunlight, due to the lupus. She swims as a form of therapy and for the exercise recommended by her physician. The grandchildren in the

report are not the petitioner's, and are the grandchildren of the healthcare advocate. The healthcare advocate requested that the DDD provide the three jobs that the petitioner can do. It is noted that the representative referred to the petitioner's condition as hyper-extended disorder, which was diagnosed by the petitioner's physician as hypermobility syndrome.

13. Additional evidence submitted by the respondent was from the DDD operation service manager with the Division of Disability Determination. She indicated the three jobs the petitioner was capable of performing were mailer, silver wrapper and office helper.

CONCLUSIONS OF LAW

14. The Department of Children and Families, Office of Appeal Hearings has jurisdiction over the subject matter of this proceeding and the parties, pursuant to Fla. Stat § 409.285. This Order is the final administrative decision of the Department of Children and Families under Fla. Stat. § 409.285.

15. This proceeding is a de novo proceeding pursuant to Fla. Admin. Code R. 65-2.056.

16. In accordance with Fla. Admin. Code R. 65-2.060(1), the burden of proof was assigned to the respondent.

17. The Fla. Admin. Code, Section 65A-1.710 et seq., sets forth the rules of eligibility for Elderly and Disabled Individuals Who Have Income of Less Than the Federal Poverty Level. For an individual less than 65 years of age to receive benefits, he or she must meet the disability criteria of Title XVI of the Social Security Act appearing in 20 C.F.R. § 416.905. The regulation states, in part:

> The law defines disability as the inability to do any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. To meet this definition, you must have a severe impairment which makes you unable to do your previous work or any other substantial gainful activity which exists in the national economy...

18. The hearing officer evaluated the petitioner's claim of disability using the sequential evaluation as set forth in 20 C.F.R. §416.920. The first step is to determine whether the individual is working. The petitioner is not working. The petitioner meets this step.

19. The second step is to determine whether an individual has a severe impairment. It is concluded that in combination the petitioner's impairments are severe. The petitioner meets this step.

20. The third step is to determine whether the individual's impairments meet or equal a listed impairment in Appendix 1 of the Social Security Act. The DDD reviewed the petitioner's impairment at the listing 1.00 Musculoskeletal. The hearing officer reviewed the listings at 1.00 Musculoskeletal, 8.00 Skin Disorders, 12.00 Mental Disorders, and 14.00 Immune System Disorders from the Code of Federal Regulations at 20 C.F.R. 404 Appendix 1 to Subpart P.

21. The listing at 1.00, Musculoskeletal was reviewed for the petitioner's knee replacements, hypermobility syndrome and scapholunate dislocation:

> A. Disorders of the musculoskeletal system may result from hereditary, congenital, or acquired pathologic processes. Impairments may result from infectious, inflammatory, or degenerative processes, traumatic or developmental events, or neoplastic, vascular, or toxic/metabolic diseases.
> B. Loss of function.

1. General. Under this section, loss of function may be due to bone or joint deformity or destruction from any cause; miscellaneous disorders of the spine with or without radiculopathy or other neurological deficits; amputation; or fractures or soft tissue injuries, including burns, requiring prolonged periods of immobility or convalescence. The provisions of 1.02 and 1.03 notwithstanding, inflammatory arthritis is evaluated under 14.09 (see 14.00D6). Impairments with neurological causes are to be evaluated under 11.00ff...
1.02 Major dysfunction of a joint(s) (due to any cause): Characterized by gross anatomical deformity (e.g., subluxation, contracture, bony or fibrous ankylosis, instability) and chronic joint pain and stiffness with signs of limitation of motion or other abnormal motion of the affected joint(s), and findings on appropriate medically acceptable imaging of joint space narrowing, bony destruction, or ankylosis of the affected joint(s). With:
A. Involvement of one major peripheral weight-bearing joint (i.e., hip, knee, or ankle), resulting in inability to ambulate effectively, as defined in 1.00B2b; or
B. Involvement of one major peripheral joint in each upper extremity (i.e., shoulder, elbow, or wrist-hand), resulting in inability to perform fine and gross movements effectively, as defined in 1.00B2c.
1.03 Reconstructive surgery or surgical arthrodesis of a major weight-bearing joint, with inability to ambulate effectively, as defined in 1.00B2b, and return to effective ambulation did not occur, or is not expected to occur, within 12 months of onset...

22. The petitioner was not present at the hearing to provide first hand testimony of her ability to stand and walk. The petitioner reported pain to both of her doctors. The reports from the petitioner's treating physician indicted osteoarthritis of both knees, hypermobility syndrome, bilateral carpal tunnel syndrome, and elbow tendonitis. The reports from the petitioner's treating physician did not indicate the petitioner used a cane or walker, or had any inability to ambulate. The reports from the petitioner's specialist indicated that the petitioner was well nourished, well developed, in no apparent distress, no rash on skin, no clubbing or edema in the extremities, no synovitits or effusion in the musculoskeletal, and no instability noted. His observations were positive for swelling of right wrist, bony palpation no tenderness, soft tissue

palpation tender at the wrist joint and scapholunate junction, strength decreased seconday to pain, sensation intact all fingers, and normal pulses. His assessment was carpal ligament tear, plantar fasciitis, chronic pain of wrist and foot, ankle sprain, osteoarthritis of knee status post joint replacement, carpal tunnel syndrome, and lupus. X-ray of right foot revealed normal foot without fractures, subluxations or malalignment. The specialist did not indicate loss of function, major deformity or inability of the petitioner to ambulate based on her impairments.

23. The listing at 8.00, Skin Disorders, was reviewed for the petitioner's skin lesions:

> A. What skin disorders do we evaluate with these listings? We use these listings to evaluate skin disorders that may result from hereditary, congenital, or acquired pathological processes. The kinds of impairments covered by these listings are: Ichthyosis, bullous diseases, chronic infections of the skin or mucous membranes, dermatitis, hidradenitis suppurativa, genetic photosensitivity disorders, and burns.
> B. What documentation do we need? When we evaluate the existence and severity of your skin disorder, we generally need information about the onset, duration, frequency of flareups, and prognosis of your skin disorder; the location, size, and appearance of lesions; and, when applicable, history of exposure to toxins, allergens, or irritants, familial incidence, seasonal variation, stress factors, and your ability to function outside of a highly protective environment. To confirm the diagnosis, we may need laboratory findings (for example, results of a biopsy obtained independently of Social Security disability evaluation or blood tests) or evidence from other medically acceptable methods consistent with the prevailing state of medical knowledge and clinical practice.
> C. How do we assess the severity of your skin disorder(s)? We generally base our assessment of severity on the extent of your skin lesions, the frequency of flareups of your skin lesions, how your symptoms (including pain) limit you, the extent of your treatment, and how your treatment affects you.
> 1. Extensive skin lesions. Extensive skin lesions are those that involve multiple body sites or critical body areas, and result in a very serious limitation. Examples of extensive skin lesions that result in a very serious limitation include but are not limited to:

> a. Skin lesions that interfere with the motion of your joints and that very seriously limit your use of more than one extremity; that is, two upper extremities, two lower extremities, or one upper and one lower extremity.
> b. Skin lesions on the palms of both hands that very seriously limit your ability to do fine and gross motor movements.
> c. Skin lesions on the soles of both feet, the perineum, or both inguinal areas that very seriously limit your ability to ambulate...
> D. How do we assess impairments that may affect the skin and other body systems? When your impairment affects your skin and has effects in other body systems, we first evaluate the predominant feature of your impairment under the appropriate body system. Examples include, but are not limited to the following...
> 3. Autoimmune disorders and other immune system disorders (for example, systemic lupus erythematosus (SLE), scleroderma, human immunodeficiency virus (HIV) infection, and Sjögren's syndrome) often involve more than one body system. We first evaluate these disorders under the immune system disorders listings in 14.00. We evaluate SLE under 14.02.

24. The healthcare advocate asserted the petitioner has lesions of the face and the petitioner has flare-ups of these lesions. There was a lack of information as to onset, duration, frequency of flareups, and prognosis of the skin disorder, and the location, size, and appearance of the petitioner's lesions. There was no evidence of lesions anywhere else on her body. The evidence did not demonstrate that the petitioner's lesions interfered with the motion of her joins, or limited the use of her extremities. A review of the office visit reports from both doctors from 2012 and 2013 did not indicate any lesions on the petitioner's face. There were no laboratory findings regarding lupus was submitted. The petitioner's impairment does not meet this listing.

25. The listing at 12.00 Mental Disorders was reviewed for the petitioner's depression, obsessive-compulsive disorder and adult attention deficit disorder:

> B. Need for medical evidence. We must establish the existence of a medically determinable impairment(s) of the required duration by medical evidence consisting of symptoms, signs, and laboratory findings (including psychological test findings). Symptoms are your own description of your

physical or mental impairment(s). Psychiatric signs are medically demonstrable phenomena that indicate specific psychological abnormalities, e.g., abnormalities of behavior, mood, thought, memory, orientation, development, or perception, as described by an appropriate medical source. Symptoms and signs generally cluster together to constitute recognizable mental disorders described in the listings. The symptoms and signs may be intermittent or continuous depending on the nature of the disorder.

26. Petitioner enjoys watching television. She has not been seen by any therapist or hospitalized for any mental issue. Her general practitioner prescribes her medication. The evidence did not include any psychological test findings by an appropriate medical source. Based on the medical evidence submitted into record, the petitioner's impairment does not meet the listing.

27. The listing at 14.00 Immune System Disorders was reviewed:

D. How do we document and evaluate the listed autoimmune disorders?
1. Systemic lupus erythematosus (14.02).
a. General. Systemic lupus erythematosus (SLE) is a chronic inflammatory disease that can affect any organ or body system. It is frequently, but not always, accompanied by constitutional symptoms or signs (severe fatigue, fever, malaise, involuntary weight loss). Major organ or body system involvement can include: Respiratory (pleuritis, pneumonitis), cardiovascular (endocarditis, myocarditis, pericarditis, vasculitis), renal (glomerulonephritis), hematologic (anemia, leukopenia, thrombocytopenia), skin (photosensitivity), neurologic (seizures), mental (anxiety, fluctuating cognition ("lupus fog"), mood disorders, organic brain syndrome, psychosis), or immune system disorders (inflammatory arthritis). Immunologically, there is an array of circulating serum auto-antibodies and pro- and anti-coagulant proteins that may occur in a highly variable pattern...
14.02 Systemic lupus erythematosus. As described in 14.00D1. With:
A. Involvement of two or more organs/body systems, with:
1. One of the organs/body systems involved to at least a moderate level of severity; and
2. At least two of the constitutional symptoms or signs (severe fatigue, fever, malaise, or involuntary weight loss). or
B. Repeated manifestations of SLE, with at least two of the constitutional symptoms or signs (severe fatigue, fever, malaise, or involuntary weight loss) and one of the following at the marked level:

1. Limitation of activities of daily living.
2. Limitation in maintaining social functioning.
3. Limitation in completing tasks in a timely manner due to deficiencies in concentration, persistence, or pace.

28. The petitioner's impairment does involve other body systems of skin (photosensitivity) and mental. The petitioner's representative did assert the petitioner did have deficiencies in concentration, and fatigue was reported at doctor visits. No involuntary weight loss was indicated as the petitioner's weighed 172 pounds in December 2012 and 185 pounds in August 2013. The evidence does not demonstrate two constitutional symptoms or signs. The petitioner's impairment does not meet this listing.

29. Based on the medical evidence submitted into record, the petitioner's impairments, in combination, do not meet a listing and are not medically equivalent to this any section of a listing. The petitioner does not meet this step. Although the petitioner does not meet this step, the review continues.

30. The fourth step is to determine whether the individual's impairments prevent the petitioner from doing past relevant work. The petitioner's work history is that of wallpaper hanger. The Dictionary of Occupational Titles indicates that work, as a wallpaper hanger (841.381-010) is medium, skilled work. The DDD determined by residual functional capacity that the petitioner was capable of other light work. The petitioner meets this step.

31. The Code of Federal Regulations at 20 C.F.R. 404.1567 "Physical exertion requirements" states:

> To determine the physical exertion requirements of work in the national economy, we classify jobs as sedentary, light, medium, heavy, and very

> heavy…In making disability determinations under this subpart, we use the following definitions
> (a) Sedentary work. Sedentary work involves lifting no more than 10 pounds at a time and occasionally lifting or carrying articles like docket files, ledgers, and small tools. Although a sedentary job is defined as one which involves sitting, a certain amount of walking and standing is often necessary in carrying out job duties. Jobs are sedentary if walking and standing are required occasionally and other sedentary criteria are met.
> (b) Light work. Light work involves lifting no more than 20 pounds at a time with frequent lifting or carrying of objects weighing up to 10 pounds. Even though the weight lifted may be very little, a job is in this category when it requires a good deal of walking or standing, or when it involves sitting most of the time with some pushing and pulling of arm or leg controls. To be considered capable of performing a full or wide range of light work, you must have the ability to do substantially all of these activities. If someone can do light work, we determine that he or she can also do sedentary work, unless there are additional limiting factors such as loss of fine dexterity or inability to sit for long periods of time.

32. The Code of Federal Regulations at Appendix 2 to Subpart P of Part 404, Medical-Vocational Guidelines, sets forth:

> 201.00 Maximum sustained work capability limited to sedentary work as a result of severe medically determinable impairment(s). (a) Most sedentary occupations fall within the skilled, semi-skilled, professional, administrative, technical, clerical, and benchwork classifications. Approximately 200 separate unskilled sedentary occupations can be identified, each representing numerous jobs in the national economy. Approximately 85 percent of these jobs are in the machine trades and benchwork occupational categories. These jobs (unskilled sedentary occupations) may be performed after a short demonstration or within 30 days.

33. The three job cited by DDD were mailer, silver wrapper and office helper. The Dictionary of Occupational Titles indicates that work as a mailer, silver wrapper or office helper are indicated as light, unskilled work. The DDD physician determined the petitioner's functional limitations of occasionally lift 20 pounds, frequently lift 10 pounds, stand and/or walk (with normal breaks) for about six hours, sit about six hours, and unlimited push and/or pull. The petitioner did not indicate any problem sitting.

However, work mailer, silver wrapper or office helper would require extensive use of the petitioner's hands. Based on the petitioner's hypermobility syndrome, scapholunate dislocation, and carpal tunnel syndrome, it is concluded that the petitioner would not be able to meet the exertion requirements or finger dexterity of light work. The evidence did not demonstrate the petitioner has any problem with sitting. It is concluded that the petitioner's functional ability is consistent with a sedentary functional capacity.

34. The fifth step is to determine whether the individual's impairments prevent the petitioner from doing other work. The Code of Federal Regulations at 20 C.F.R. § 416.960, When we will consider your vocational background, indicates:

> (c) Other work. (1) If we find that your residual functional capacity does not enable you to do any of your past relevant work or if we use the procedures in § 416.920(h), we will use the same residual functional capacity assessment when we decide if you can adjust to any other work. We will look at your ability to adjust to other work by considering your residual functional capacity and the vocational factors of age, education, and work experience, as appropriate in your case. (See § 416.920(h) for an exception to this rule.) Any other work (jobs) that you can adjust to must exist in significant numbers in the national economy (either in the region where you live or in several regions in the country).
> (2) In order to support a finding that you are not disabled at this fifth step of the sequential evaluation process, we are responsible for providing evidence that demonstrates that other work exists in significant numbers in the national economy that you can do, given your residual functional capacity and vocational factors. We are not responsible for providing additional evidence about your residual functional capacity because we will use the same residual functional capacity assessment that we used to determine if you can do your past relevant work.

35. The petitioner did not provide any direct testimony. The hearing officer did consider the healthcare advocate's testimony of the petitioner's limitations and pain. The hearing officer also considered that the petitioner could drive short distances, provide her own personal care, could do some laundry and dishes, and neither of her

physician's indicated that the petitioner was unable to work. .Considering the petitioner's sedentary residual functional capacity, closely approaching retirement age, skilled work history, high school education, and non-transferrable skills, the Vocational Rules, Table 3 were consulted. The Vocational Rule, Table 3, Rule 203.07, indicates a decision of not disabled.

36. Based on the evidence, as submitted, it is concluded that the petitioner does have the ability to perform other work in the national economy. The petitioner does not meet the disability criteria and does not meet the definition of disability as set forth in the Social Security Act. It is concluded that the respondent's termination of the petitioner's Medicaid benefits and the denial of her Medicaid application was consistent with the rules and regulations of the Program.

37. The petitioner has a pending SSI application with Social Security. Any decision by Social Security would take precedence over the decision in this Order.

DECISION

Based upon the foregoing Findings of Fact and Conclusions of Law, the appeal is denied.

NOTICE OF RIGHT TO APPEAL

This decision is final and binding on the part of the Department. If the petitioner disagrees with this decision, the petitioner may seek a judicial review. To begin the judicial review, the petitioner must file one copy of a "Notice of Appeal" with the Agency Clerk, Office of Legal Services, Bldg. 2, Rm. 204, 1317 Winewood Blvd., Tallahassee, FL 32399-0700. The petitioner must also file another copy of the "Notice of Appeal" with the appropriate District Court of Appeal. The Notices must be filed within thirty (30) days of the date stamped on the first page of the final order. The petitioner must either pay the court fees required by law or seek an order of indigency to waive those fees. The petitioner is responsible for any financial obligations incurred as the Department has no funds to assist in this review.

DONE and ORDERED this 20th day of May, 2014,

in Tallahassee, Florida.

Linda Jo Nicholson
Hearing Officer
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