

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

FILED
JAN 26 2015

OFFICE OF APPEAL HEARINGS
DEPT. OF CHILDREN & FAMILIES



PETITIONER,

Vs.

FLORIDA DEPARTMENT OF
CHILDREN AND FAMILIES
CIRCUIT: 15 Palm Beach
UNIT: 88322

RESPONDENT.

APPEAL NO. 14F-09605

CASE NO. 

FINAL ORDER

Pursuant to notice, the undersigned convened a telephonic administrative hearing in the above-referenced matter on December 10, 2014 at 9:49 a.m.

APPEARANCES

For the petitioner: Mika Dominguez, patient advocate, Delray Medical Center
For the respondent: Laura Arnold, ACCESS supervisor

STATEMENT OF ISSUE

The petitioner is appealing the respondent's action of denying petitioner's August 19, 2014 application for Medicaid benefits.

PRELIMINARY STATEMENT

The respondent presented one composite exhibit, which was accepted and entered into evidence as Respondent's Composite Exhibit 1. At the hearing, the

petitioner did not present any exhibits. The record was held open until December 15, 2014, for additional evidence from both parties. The petitioner provided one exhibit, which was entered into evidence as Petitioner's Exhibit 1. The record was further held open until January 5, 2015, for the respondent to provide additional evidence. Two additional exhibits were provided which were accepted, entered into evidence and marked as Respondent's Exhibits 2 and 3. The record was closed on January 5, 2015.

FINDINGS OF FACT

1. On August 19, 2014, the petitioner submitted an application for Medicaid benefits for herself (age 65) and husband (age 62). On her application, she listed that her husband was employed at Solutions Landscaping and paid \$1,000 twice per month.
2. On August 25, 2014, the respondent sent Notice of Case Action requesting the petitioner to provide proof of Immigration and Naturalization Service (INS) status and proof of all gross income for the last four weeks. The due date to return the information was September 4, 2014. An agency Income Verification Form was mailed together with the Notice of Case Action.
3. On August 29, 2014, the hospital representative submitted a designated representative form to represent the petitioner. The representative also provided a statement from the petitioner's husband stating he earns \$1,000 monthly. The petitioner signed the document. It had the telephone number 305-[REDACTED]
4. On September 4, 2014, the petitioner's representative emailed a Department's representative informing that the requested documents were sent. He also requested that the case be processed.

5. On September 5, 2014, the Department representative responded to the representative's email, giving him the name of the processor of the petitioner's pending case.
6. On September 15, 2014, the representative emailed the processor requesting the petitioner's case be processed and that he be notified when it was processed.
7. On September 19, 2014, a Notice of Case Action was mailed to the petitioner informing him that his application for Medicaid benefits was denied. The reason given for the denial was he did not provide verification of income.
8. On September 19, 2014, the petitioner's representative requested a hearing on behalf of the petitioner.
9. The respondent argued that the petitioner's application indicated he worked for Solutions Landscaping and the income verification should be completed by his employer and not by the petitioner's husband.
10. The petitioner's representative asserted that the petitioner was self-employed and earned \$1,000 per month. He explained that the petitioner's son completed his application and input the incorrect income information. The petitioner's representative feels the respondent should have notified the representative at that time of the documents needed to process the petitioner's application. The representative had sent an email to the worker requesting the Department contact him if any additional documents were needed, as the respondent had not contacted the representative to provide additional information.
11. The Department stated that it had a 60-day policy to reopen the case had the petitioner provided the requested documents.

CONCLUSIONS OF LAW

12. 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.
13. This proceeding is a de novo proceeding pursuant to Fla. Admin. Code R. 65-2.056.
14. In accordance with Fla. Admin. Code R. 65-2.060 (1), the burden of proof is assigned to the petitioner.
15. The Fla. Admin. Code R. 65A-1.203(9) defines representative:
"Authorized/Designated Representative: An individual who has knowledge of the assistance group's circumstances and is authorized to act responsibly on their behalf."
16. The ACCESS Program Policy Manual (The Policy Manual), 165-22 sets forth in the following passages:

0640.0107 Who May be Interviewed (MSSI, SFP)
Conduct interviews with a responsible member of the SFU (except for a sponsor) or a designated representative. A responsible member is any member able to represent the SFU by providing sufficient and accurate information concerning the SFU's circumstances...

0640.0109 Designated Representatives (MSSI)
A designated representative may be appointed or self-designated to act on behalf of the household. If the individual does not select a specific person as designated representative, determine if the self-designated representative is the most appropriate person to fulfill this responsibility. An applicant must authorize a designated representative in writing prior to eligibility determination or anytime during the review period. The applicant does not have to be functionally or legally incompetent to have a designated representative...

17. The above allows for the petitioner to have a designated representative. The petitioner executed her right to have a designated representative.
18. The Fla. Admin. Code R. 65A-1.204, Rights and Responsibilities, sets forth:
 - (1) An individual has the right to apply for assistance, to have eligibility determined, and if found eligible, to receive benefits. The applicant for or recipient of public assistance must assume the responsibility of furnishing information, documentation and verification needed to establish eligibility...
19. The petitioner's representative acts on behalf of the petitioner for the application, including interviews. The representative assumes the same rights and responsibilities as the applicant, including the responsibility of furnishing information, documentation and verification needed.
20. The respondent was aware the petitioner had a representative but did not send him notification requesting additional information regarding clarification on the petitioner's income. The respondent did not present evidence that the petitioner and her representative were provided with a request for additional income verification. The petitioner's Medicaid benefits were denied without an explanation why the respondent did not accept the income verification she provided for her husband. It is concluded the respondent should have requested additional income verification explaining that there was a discrepancy which needed to be resolved. The respondent should have also sent a Notice of Case Action to the petitioner and her representative requesting additional income verification from the employer. Without a notice in which the respondent requested additional evidence or that there was a discrepancy of income, the petitioner's representative did not know the income verification provided was not

accepted or sufficient. The petitioner's representative assumed the responsibility to provide information on behalf of the petitioner.

21. The Fla. Admin. Code R 65A-1.205, Eligibility Determination Process, sets forth the time frame for an applicant to provide additional information:

(1)(c) If the eligibility specialist determines during the interview or at any time during the application process that the applicant must provide additional information or verification, or that a member of the assistance group must comply with Child Support Enforcement or register for employment services, the eligibility specialist must give the applicant written notice to provide the requested information or to comply, allowing ten calendar days from request or the interview, whichever is later...

22. As the respondent did not send the petitioner or her representative a request for additional information, it is concluded that the respondent's denial of the petitioner's application for Medicaid Program benefits was premature. The case is remanded to respondent to determine eligibility from the date of the application (August 19, 2014) and to include the petitioner's representative in any pending for additional information and notices issued related to this case.

DECISION

Based upon the foregoing Findings of Fact and Conclusions of Law, the appeal is granted. The case is remanded to the respondent to determine eligibility back to the date of her application. Once a decision is made, a new notice should be issued advising of the determination and include appeal rights.

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 January, 2015,

in Tallahassee, Florida.

Christiana Gopaul-Narire

Christiana Gopaul-Narire

Hearing Officer

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