

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

**FILED**

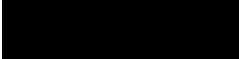
MAR 06 2015

OFFICE OF APPEAL HEARINGS  
DEPT. OF CHILDREN & FAMILIES



APPEAL NO. 14F-09910

PETITIONER,  
Vs.

CASE NO. 

FLORIDA DEPARTMENT OF  
CHILDREN AND FAMILIES  
CIRCUIT: 06 Pasco  
UNIT: 883CF

RESPONDENT.  
\_\_\_\_\_ /

**FINAL ORDER**

Pursuant to notice, the undersigned convened a telephonic administrative hearing in the above-referenced matter on January 21, 2015, at 8:34 a.m.

**APPEARANCES**

For the Petitioner: Diana Towns, Canaide benefit consultant

For the Respondent: Anjali Pant, ES senior human services program specialist

**ISSUE**

The petitioner is appealing the delay in processing Medicaid Program benefits from February 2013 through December 2014.

### **PRELIMINARY STATEMENT**

The hearing was scheduled for December 12, 2014 and was rescheduled at the request of the petitioner's representative.

The respondent presented seven exhibits which were accepted into evidence and marked as Respondent's Exhibits "1" through "7", respectively. The petitioner presented one exhibit which was accepted into evidence and marked as Petitioner's Exhibit "1". The record was left open for both parties to submit additional evidence. On January 27, 2015, the petitioner submitted additional evidence which was entered into record as Petitioner's Exhibit 2. On February 6, 2015, the respondent presented one exhibit which was accepted into evidence and marked as Respondent's Exhibits "8". The record closed.

### **FINDINGS OF FACT**

1. On March 4, 2013, the petitioner was sent a notice informing her that her application for Medicaid Program benefits was denied, as she did not meet the disability criteria. After this denial by the respondent, Social Security reversed its decision and determined that the petitioner was disabled effective January 19, 2012.
2. No Medicaid Program applications from March 5, 2013 through November 20, 2014 were submitted into evidence.
3. On November 21, 2014, the representative submitted an application for Medicaid Program benefits on behalf of the petitioner. The respondent asserted that the requested copy of a current signed Financial Information Release and any medical bills was not received and the application was denied.

4. The record was left open for the respondent to submit the Running Record Comments, Document Imaging, the notice requesting the petitioner submit the Financial Information Release, and the denial notice for the November 21, 2014 application. These documents were not submitted into evidence. The respondent submitted an exhibit that indicated that on January 22, 2015, the petitioner's application for Medicaid Program benefits was reopened, and the petitioner was determined eligible for enrollment in the Medicaid Medically Needy Program with a share of cost effective November 2014.

5. The petitioner's representative asserted she has resubmitted the application three times and has submitted the Financial Information Release that was requested by the respondent. In her additional evidence, the representative submitted four documents: a facsimile receipt for an eight page facsimile sent May 16, 2014; a facsimile receipt for a two page facsimile sent June 24, 2014; a Financial Information Release dated September 13, 2013 and an Appointment of Designated Representative signed by the petitioner September 13, 2103. The Financial Information Release had a facsimile stamping of October 2, 2013, page 4 of 11. The Appointment of Designated Representative had a facsimile stamping of October 2, 2013, page 3 of 11. On September 16, 2014, the representative submitted a hearing request.

6. The eight pages referred to in the May 16, 2014 facsimile were not submitted into evidence. There was no description of the documents sent with the June 24, 2014 receipt. The facsimile stamping of October 2, 2013 and the facsimile page numbers on the Financial Information Release and Appointment of Designated Representative do

not match the June 24, 2014 facsimile receipt. The Financial Information Release was not complete and did not have the start and end date that the release was valid

### CONCLUSIONS OF LAW

7. 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.

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

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

A. As to the issue of the delay in processing Medicaid Program benefits from February 2013 through November 20, 2014.

10. The Fla. Admin. Code R. 65-2.046, Time Limits in Which to Request a Hearing, sets forth:

(1) The appellant or authorized representative must exercise the right to appeal within 90 calendar days in all programs. Additionally, in the Food Stamp Program, a household may request a fair hearing at any time within a certification period to dispute its current level of benefits. The time period begins with the date following:

(a) The date on the written notification of the decision on an application.

11. On March 3, 2013, the petitioner was sent a notice denying Medicaid Program benefits. On September 16, 2014, the petitioner's representative submitted a request for hearing. This request for hearing was not within the 90 days from the date

of the notice. As a request for hearing was not timely submitted within 90 days from the date of that notice, the undersigned lacks jurisdiction to review that application.

12. The Fla. Admin. Code R. 65A-1.205, Eligibility Determination Process sets forth:

(1)(a) The Department must determine an applicant's eligibility initially at application and if the applicant is determined eligible, at periodic intervals thereafter. It is the applicant's responsibility to keep appointments with the eligibility specialist and furnish information, documentation and verification needed to establish eligibility...

(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..., 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. For all programs, verifications are due ten calendar days from the date of written request or the interview, or 60 days from the date of application, whichever is later... If the applicant does not provide required verifications or information by the deadline date the application will be denied...

13. No proof of submission of any Medicaid Program application or a denial notice for the time period of March 5, 2013 through November 20, 2014 was submitted into evidence. The petitioner has not met her burden to prove that she applied for Medicaid Program benefits from March 5, 2013 through November 20, 2014. Based on the evidence received, it is concluded that the respondent did not delay in processing any Medicaid application for the petitioner from March 2013 through November 20, 2014.

B. As to the issue of the delay in processing Medicaid Program benefits from November 21, 2014 through December 2014.

14. The ACCESS Program Transmittal Number: I-13-01-001, Asset Verification System, effective date February 1, 2013, sets forth:

**Procedure**

A signed Financial Information Release form, CF-ES 2613, must be received for all individuals applying for or receiving Medicaid on the basis of age (65 or older), blindness, or disability and individuals whose assets are evaluated during the eligibility determination. Form CF-ES 2613 is considered requested verification and gives the Department permission to request records from a financial institution, such as a bank, savings and loan, or credit union.

**Pending for Authorization**

If form CF-ES 2613 is not submitted with the application, the case must be pended for the form...

15. The evidence, as submitted, does not demonstrate that the Financial Information Release was submitted to the respondent on May 16, 2014 or June 24, 2014. The Financial Information Release that was submitted into evidence was incomplete and did not have any dates on it to show that the release was valid. As the petitioner has not met her burden to prove that the petitioner timely submitted the requested Financial Medical Release, the hearing officer cannot conclude that the respondent delayed in processing Medicaid Program benefits for November 2014 through December 2014.

16. A Medicaid application dated November 21, 2014 was submitted into evidence. The petitioner has been approved for Medicaid Medically Needy Program benefits with a share of cost effect November 2014. There is no further action to be taken by the hearing officer effective November 2014.

**DECISION**

Based upon the foregoing Findings of Fact and Conclusions of Law, the appeal is found as follows.

A. For the period of February 2013 through November 20, 2014, the appeal is denied, as the petitioner did not meet her burden that there was a delay in processing any application for Medicaid Program benefits.

B. For the period of November 21, 2014 through December 2014, the petitioner did not meet her burden that there was a delay in processing any application for Medicaid Program benefits. The respondent has taken action to approve Medicaid Medically Needy benefits with a share of cost effective November 2014, and there is no further action to be taken by the hearing officer.

**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.

FINAL ORDER (Cont.)

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DONE and ORDERED this 6<sup>th</sup> day of March, 2015,

in Tallahassee, Florida.



Linda Jo Nicholson *IMP*  
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Office of Economic Self Sufficiency