

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

**FILED**

**FEB 23 2015**

OFFICE OF APPEAL HEARINGS  
DEPT OF CHILDREN & FAMILIES



APPEAL NO. 14F-10544

PETITIONER,  
Vs.

CASE NO.



FLORIDA DEPARTMENT OF  
CHILDREN AND FAMILIES  
CIRCUIT: 15 Palm Beach  
UNIT: 88594

RESPONDENT.

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**FINAL ORDER**

Pursuant to notice, the undersigned convened a telephonic administrative hearing in the above-referenced matter on January 06, 2015, at 4:05 p.m.

**APPEARANCES**

For the petitioner: Zarela Toth, case representative for Adreima

For the respondent: Shirley Stringer, ACCESS supervisor

**STATEMENT OF ISSUE**

The petitioner is appealing denial of his 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 January 16, 2015, for additional evidence from both parties. The petitioner

provided two exhibits, which were entered into evidence as Petitioner's Composite Exhibit 1 and Petitioner's Exhibit 2. The Department did not submit any additional evidence. The record was closed on January 16, 2015.

**FINDINGS OF FACT**

1. On July 30, 2014, the petitioner's representative submitted an application for Emergency Medicaid for Aliens (EMA) benefits for the petitioner requesting dates of service of July 7, 2014 through July 11, 2014. The petitioner has no Immigration and Naturalization status (INS). On the application, it stated that he was employed and paid \$450 weekly. It did not list where he worked or for whom.
2. On July 31, 2014, the respondent sent a Notice of Case Action to the petitioner's authorized representative requesting the petitioner to provide a 2039 form, medical bills for July 7, 2014 and gross income for the last four weeks. The due date given to return the information was August 11, 2014.
3. On August 13, 2014, the petitioner provided the Department with an agency income verification form. The employer listed on the form was [REDACTED] (Mr. C), the company's name was Electric Connection and telephone number was 561-509-4861.
4. On August 18, 2014, the Department found a discrepancy with the income listed on the agency form and the income listed on the application. The Department called the telephone number listed on the agency form and spoke to Mr. C, using the Language Line to interpret. Mr. C stated that he completed the agency form for the petitioner. He stated that he was a co-worker not the

petitioner's boss. The respondent did not accept the agency form because the petitioner's co-worker, not his boss completed it.

5. On August 19, 2014, the Department sent the petitioner's representative another Notice of Case Action requesting paystubs for the petitioner. The notice explained that another employee completed the agency form and the petitioner should provide paystubs. The income information was due by August 29, 2014.

6. On August 25, 2014, the petitioner's representative, emailed an employee asking if a work calendar could be completed. The petitioner's representative did not get a response to her email.

7. On September 18, 2014, the petitioner's representative faxed to the Department a work calendar completed by the petitioner for the month of July 2014.

8. On September 26, 2014, the Department responded to the petitioner's representative, informing her that the verification of employment form and the work calendar had conflicting income amounts.

9. On September 2, 2014, a Notice of Case Action was mailed to the petitioner informing him that he was ineligible for Medicaid benefits.

10. On October 9, 2014, the petitioner's representative requested a hearing on behalf of the petitioner.

11. The petitioner's representative asserted the petitioner informed her that he was self-employed and did not work for any company. The petitioner's representative explained the petitioner's co-worker completed the agency form because he had more work experience but he was not the petitioner's boss. The representative had sent an email to the worker requesting the Department contact her to clarify what documents

were needed to process the application but the Department did not respond to her email.

12. At the hearing, the Department agreed to have its staff contact the employer to resolve the discrepancy regarding the petitioner's employment and report its findings to the hearing officer. The petitioner's representative agreed to have the petitioner provide statements from his clients where he performed work. The undersigned has not received any of the information agreed upon.

#### **CONCLUSIONS OF LAW**

13. 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.

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

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

16. 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...

17. 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.

18. Fla. Admin. Code 65A-1.205 explains the eligibility determination process, and states in part:

(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. If the Department schedules a telephonic appointment, it is the Department's responsibility to be available to answer the applicant's phone call at the appointed time. If the information, documentation or verification is difficult for the applicant to obtain, the eligibility specialist must provide assistance in obtaining it when requested or when it appear necessary.

(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. 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. In cases where the applicant must provide medical information, the return due date is 30 calendar days following the written request or the interview, or 60 days from the date of application, whichever is later. If the due date falls on a holiday or weekend, the deadline is the next working day. If the applicant does not provide required verifications or information by the deadline date the application will be denied, unless the applicant requests an extension or there are extenuating circumstances justifying an additional extension. The eligibility specialist makes the decision of whether to grant the request for extension. When the applicant provides all required information or verification, the eligibility specialist determines eligibility for the public assistance programs. If the eligibility criteria are met, benefits are authorized.

(4) If an applicant or recipient does not keep an appointment without arranging another time with the eligibility specialist; or does not sign and date the applications described in subsection (1); or does not submit required documentation or verification the Department will deny benefits as it cannot establish eligibility.

19. The Code of Federal Regulations at 7 C.F.R. § 273.2 states in part:

(c)(5) *Notice of Required Verification.* The State agency shall provide each household at the time of application for certification and recertification with a notice that informs the household of the verification requirements the household must meet as part of the application process...

(d) Household cooperation. (1) To determine eligibility, the application form must be completed and signed, the household or its authorized representative must be interviewed, and certain information on the application must be verified...

(f) Verification. Verification is the use of documentation or a contact with a third party to confirm the accuracy of statements or information. The State agency must give households at least 10 days to provide required verification...

(1) Mandatory verification. State agencies shall verify the following information prior to certification for households initially applying:

(i) Gross nonexempt income...

(2) Verification of questionable information.

(i) The State agency shall verify, prior to certification of the household, all other factors of eligibility which the State agency determines are questionable and affect the household's eligibility and benefit level...

(4) *Sources of verification—(i) Documentary evidence.* State agencies shall use documentary evidence as the primary source of verification for all items except residency and household size. These items may be verified either through readily available documentary evidence or through a collateral contact, without a requirement being imposed that documentary evidence must be the primary source of verification. Documentary evidence consists of a written confirmation of a household's circumstances. Examples of documentary evidence include wage stubs, rent receipts, and utility bills. Although documentary evidence shall be the primary source of verification, acceptable verification shall not be limited to any single type of document and may be obtained through the household or other source. Whenever documentary evidence cannot be obtained or is insufficient to make a firm determination of eligibility or benefit level, the eligibility worker may require collateral contacts or home visits. For example, documentary evidence may be considered insufficient when the household presents pay stubs which do not represent an accurate picture of the household's income (such as out-dated pay stubs) or identification papers that appear to be falsified.

(5) Responsibility of obtaining verification.

(i) The household has primary responsibility for providing documentary evidence to support statements on the application and to resolve any questionable information.

(6) Documentation. Case files must be documented to support eligibility, ineligibility, and benefit level determinations. Documentation shall be in



sufficient detail to permit a reviewer to determine the reasonableness and accuracy of the determination.

**(h)(1)(i)(C) In cases where verification is incomplete, the State agency must have provided the household with a statement of required verification and offered to assist the household in obtaining required verification and allowed the household sufficient time to provide the missing verification.** Sufficient time shall be at least 10 days from the date of the State agency's initial request for the particular verification that was missing. (emphasis added)

20. The above-cited regulation states that the primary responsibility for obtaining verification is with the applicant, however the Department is to assist the household in cases where verification is incomplete. The Department had contacted the person listed on the income form that the petitioner submitted and found that it was not the employer or filled out by the employer. A work calendar was submitted that had discrepant information from the information already submitted by the petitioner. At the hearing, the Department agreed to have its staff contact the Electric Connection to resolve the discrepancy regarding the petitioner's employment and report its findings to the hearing officer, and the petitioner's representative agreed to have the petitioner provide statements from his clients whom he performed work. The undersigned has not received any of the information regarding the resolution of the income discrepancy from either party.

21. The petitioner has the burden of proof in this instant appeal. The undersigned concludes petitioner failed to meet its burden as petitioner has still not presented accurate or acceptable verification of his income, either by a company or through self-employment. The petitioner can reapply anytime.

**DECISION**

Based upon the foregoing Findings of Fact and Conclusions of Law, the appeal is denied and the Department's action is affirmed.

**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 23<sup>rd</sup> day of February, 2015,  
in Tallahassee, Florida.

*Christiana Gopaul-Narine*

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Copies Furnished To: [REDACTED] Petitioner  
Melanie Swager, Southeast Region