

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

FILED

MAY 28 2014

OFFICE OF APPEAL HEARINGS
DEPT OF CHILDREN & FAMILIES



PETITIONER,

Vs.

FLORIDA DEPT OF
CHILDREN AND FAMILIES
CIRCUIT: 11 Dade
UNIT: 88601

RESPONDENT.

APPEAL NO. 14F-02178

CASE NO. 

FINAL ORDER

Pursuant to notice, the undersigned convened a telephonic administrative hearing in the above-referenced matter on April 23, 2014 at 8:30 a.m.

APPEARANCES

For the Petitioner: Anabell Hughes, Chamberlin Edmonds

For the Respondent: Lois Samuel, ACCESS Supervisor

STATEMENT OF ISSUE

At issue is Respondent's action in denying Petitioner's application for SSI-Related Medicaid.

PRELIMINARY STATEMENT

The Florida Department of Children and Families (Department or DCF) determines eligibility for SSI-Related Medicaid programs. In addition to other technical requirements, an individual must be disabled, blind, or aged (65 years or older) to be

eligible for SSI- Related Medicaid. The Department of Health's Division of Disability Determinations (DDD) conducts disability reviews regarding medical eligibility for individuals applying for disability benefits under the federal Social Security and Supplemental Security Income programs and the state Medically Needy program. Once a disability review is completed, the claim is returned to DCF for a final determination of non-medical eligibility and effectuation of any benefits due.

Witness for the Petitioner was [REDACTED] daughter of Petitioner. Witness for the Respondent was Rebecca Sills, Operations Service Manger with DDD.

Respondent's exhibits 1 through 8 were entered into evidence. Petitioner's exhibits 1 through 4 were entered into evidence.

FINDINGS OF FACT

1. Petitioner is a 61 year-old male who alleges diabetes, delirium, confusion, altered mental status, inappropriate laughing, disorganized thinking, and erratic behaviors. Petitioner is ambulatory and does not engage in substantial gainful activity (SGA or work activity).

2. On March 4, 2014, Petitioner submitted an application with DCF for SSI- Related Medicaid on the basis of disability.

3. On March 6, 2014, DCF informed Petitioner of a denial of his application for Emergency Medicaid for Aliens. Reasons for the denial indicate no household member is eligible for the program and no household member met the disability requirement.

4. On January 24, 2014, DDD completed a disability review which resulted in an unfavorable decision (N30). Decision code N30 indicates Petitioner has a slight

impairment, which is viewed as not severe. DDD lists Petitioner's primary diagnosis as Diabetes Mellitus.

5. Medical Records are summarized as follows: August 8, 2013 shows chief complaint as having packing removed from incision in right testicle. Scrotal abscess drainage was done on July 24, 2013 and patient did not return for regular follow-up. Skin: Skin turgor, mild swelling in right scrotal area, mass drainage was removed, no obvious puss noticed. Discharged in stable condition.

6. November 6, 2013 physical exam shows diagnoses as Altered Mental Status and Uncontrolled Diabetes Mellitus. November 2013 CT Head shows no acute intracranial abnormality. November 18, 2013 physical exam shows 60 year-old diabetic male who was admitted with altered mental status likely due to severe hyperglycemic episode.

7. November 20, 2013 physical exam shows patient underwent an incision and drainage of chest wall abscess. The abscess was growing gram-positive cocci, which may represent or likely represent a staphylococcus methicillin-resistant staphylococcus aureus. The patient is on vancomycin.

8. December 2, 2013 Discharge Summary from Jackson North Medical Center shows MRI of the brain was done with no acute intracranial stroke, intracranial hemorrhage, or enhancing lesion. The patient does have a history of old CVA. Due to the patient's uncontrolled diabetes, the patient's medication was adjusted accordingly. After adequate treatment and stability, the patient was discharged home.

9. December 9, 2013 physical exam shows patient presented for chest pain, status-post incision and drainage of a chest wall abscess. No evidence of cellulitis,

white count is normal, no fevers. The wound does not appear infected, stitches are removed. Patient is okay to be discharged, further causes of chest pain is ruled out. December 29, 2013 diagnosis shows Chest Wall Cellulitis. Patient denies any cardiac symptoms and states he is not here to due to any cardiac related issues.

10. January 23, 2014 physical exam was within normal limits. Diagnoses are Chest Pain, Hyperglycemia, and Shingles. Discharged in stable condition. X-ray of the Chest shows no acute cardiopulmonary process.

11. DDD Case Analysis Form, SSA-416, dated January 24, 2014 states in part:

Seq. Eval. 1: Is claimant engaging in SGA? No
Seq. Eval. 2: Is the impairment severe? No
Seq. Eval. 3: Does the impairment meet or equal a listing?
Seq. Eval. 4: Can the claimant perform PRW?
Seq. Eval. 5: Can the claimant perform other work?

Data:

Claimant: 61 year old male. Allegation: DM and altered mental status. Language: Spanish. Education: 6th grade. PRW in last 15 years: Power line worker in the Dominican Republic. MER summary: On 11/05/13 he was admitted to the ER at Jackson North Med Ctr with confusion and agitation. He has no prior psychiatric Hx. PE was WNL except for nonsensical speech, anxiety and agitation. A CT of the head showed no acute abnormality but a possible old infarct. His blood glucose level was 383. His glucose level was brought down and he was discharged. A prior visit on 08/02/2013 produced a Dx of hyperglycemia.

Summary/Decision:

61 year old male with Dx of DM and altered mental status. Based on the MER his condition is deemed to be a result of DM hyperglycemia with poor compliance with meds. His condition is controllable with medical compliance and is not severe. Decision: N30 Denial.

12. Psychiatric Review Technique Form (PRTF), dated January 24, 2014, completed by [REDACTED] Ph.D. shows no medically determinable mental impairment and a coexisting nonmental impairment(s) that requires referral to another medical specialty. Dr. [REDACTED] notes no evidence of chronicity consistent with major

mental illness, and treatment records are consistent with transient metabolic encephalopathy from uncontrolled diabetes. Further, records are not consistent with persisting severe psychopathology. Onset is relatively acute and associated with known pathophysiology and risk factors.

13. Dr. [REDACTED] notes delirium (by definition this is transient) is common for diabetic individuals post-surgery and/or due to diabetic ketoacidosis, which is consistent with an admission glucose level of 383 when a normal range is 70-99. Lastly, Dr. [REDACTED] notes medical records one day after discharge indicates normal neurological status with no psychiatric manifestations. This being the case, there is no evidence of mental illness distinct from his physical conditions.

14. DDD determined Petitioner not disabled at step two of the five-steps of sequential evaluation process because his impairments were found to be not severe.

15. Petitioner's daughter verified his physical impairments are diabetes and hypertension. No history of coronary artery disease was presented or established.

CONCLUSIONS OF LAW

16. 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. § 120.80. This order is the final administrative decision of the Department of Children and Families under Fla. Stat. § 409.285.

17. This hearing was held as a de novo proceeding pursuant to Fla. Admin. Code R. 65-2.056.

18. The burden of proof was assigned to the Petitioner pursuant to Fla. Admin. Code R. 65-2060(1).

19. The standard of proof needed to be met for an administrative hearing is by a preponderance of the evidence, as provided by Fla. Admin. Code R. 65-2.060(1).

20. Fla. Admin. Code R. 65A-1.710 sets forth the rules of eligibility for SSI-Related Medicaid Coverage Groups. The MEDS-AD Demonstration Waiver is a coverage group for aged and disabled individuals (or couples), as provided in 42 U.S.C. § 1396a(m). 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:

(a) 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(s) that makes you unable to do your past relevant work (see § 416.960(b)) or any other substantial gainful work that exists in the national economy.

21. Federal Regulation 42 C.F.R. § 435.541 provides that a state Medicaid determination of disability must be in accordance with the requirements for evaluating evidence under the SSI program specified in 20 C.F.R. §§ 416.901 through 416.998.

22. Federal Regulation 20 C.F.R. § 416.920, Evaluation of Disability of Adults, explains the five-step sequential evaluation process used in determining disability. The regulation states in part:

(a) General—(1) Purpose of this section. This section explains the five-step sequential evaluation process we use to decide whether you are disabled, as defined in § 416.905.

(2) Applicability of these rules. These rules apply to you if you are age 18 or older and you file an application for Supplemental Security Income disability benefits.

(3) Evidence considered. We will consider all evidence in your case record when we make a determination or decision whether you are disabled.

(4) The five-step sequential evaluation process. The sequential evaluation process is a series of five "steps" that we follow in a set order. If we can find that you are disabled or not disabled at a step, we make our determination or decision and we do not go on to the next step. If we cannot find that you are disabled or not disabled at a step, we go on to the next step. Before we go from step three to step four, we assess your residual functional capacity. (See paragraph (e) of this section.) We use this residual functional capacity assessment at both step four and at step five when we evaluate your claim at these steps. These are the five steps we follow:

(i) At the first step, we consider your work activity, if any. If you are doing substantial gainful activity, we will find that you are not disabled. (See paragraph (b) of this section.)

(ii) At the second step, we consider the medical severity of your impairment(s). If you do not have a severe medically determinable physical or mental impairment that meets the duration requirement in § 416.909, or a combination of impairments that is severe and meets the duration requirement, we will find that you are not disabled. (See paragraph (c) of this section.)

(iii) At the third step, we also consider the medical severity of your impairment(s). If you have an impairment(s) that meets or equals one of our listings in appendix 1 to subpart P of part 404 of this chapter and meets the duration requirement, we will find that you are disabled. (See paragraph (d) of this section.)

(iv) At the fourth step, we consider our assessment of your residual functional capacity and your past relevant work. If you can still do your past relevant work, we will find that you are not disabled. (See paragraph (f) of this section and § 416.960(b).)

(v) At the fifth and last step, we consider our assessment of your residual functional capacity and your age, education, and work experience to see if you can make an adjustment to other work. If you can make an adjustment to other work, we will find that you are not disabled. If you cannot make an adjustment to other work, we will find that you are disabled. (See paragraph (g) of this section and § 416.960(c).)

23. In evaluating the first step, it was determined Petitioner is not engaging in SGA. The first step is considered met.

24. In evaluating the second step, it was determined Petitioner's physical and mental impairments are considered not severe.

25. In terms of physical impairments, the evidence shows Petitioner has a diagnosis of Diabetes Mellitus and has experienced episodes of hypoglycemia. Petitioner was discharged from the hospital in stable condition upon appropriate medication treatment. This condition is controllable with medication compliance. Even though Petitioner reports a history of hypertension, the evidence failed to show any severe cardiac related issues.

26. In terms of mental impairments, the evidence shows Altered Mental Status diagnoses were secondary to episodes of hypoglycemia. There is no evidence that Petitioner is currently receiving or has received any formal mental health treatment. No history of taking psychotropic medication was reported. No suicidal ideations were reported. There has been no hospitalization for a mental impairment distinct from hypoglycemic episodes. Overall, the evidence fails to show any medically determinable mental illness distinct from his physical conditions.

27. Based on the totality of the evidence, the undersigned agrees with DDD's analysis that Petitioner's physical and mental impairments are considered not severe. As this decision is based on medical considerations alone, no consideration of vocational factors is necessary. Therefore, it is appropriate to stop at step-two of the analysis.

28. After careful review of the evidence submitted and the relevant laws set forth above, the undersigned finds the Department's action was proper, and the Petitioner's burden was not met.

DECISION

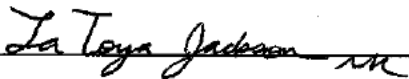
Based upon the foregoing Findings of Fact and Conclusions of Law, the Petitioner's appeal is hereby denied and Department's action is affirmed.

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 28th day of May, 2014,

in Tallahassee, Florida.



La Toya Millicent Jackson
Hearing Officer
Building 5, Room 255
1317 Winewood Boulevard
Tallahassee, FL 32399-0700
Office: 850-488-1429
Fax: 850-487-0662
Email: Appeal_Hearings@dcf.state.fl.us

Copies Furnished To: [REDACTED] Petitioner
District 11, ESS: Teresa Zepeda