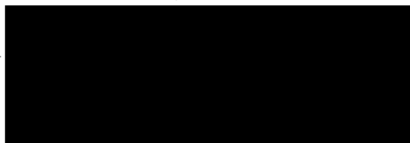


STATE OF FLORIDA
DEPARTMENT OF CHILDREN AND FAMILIES
OFFICE OF APPEAL HEARINGS

FILED
JUN 05 2014
OFFICE OF APPEAL HEARINGS
DEPT OF CHILDREN & FAMILIES



APPEAL NO. 14F-02320

PETITIONER,

Vs.

CASE NO. 

FLORIDA DEPT OF
CHILDREN AND FAMILIES
CIRCUIT: 18 Brevard
UNIT: 55207

RESPONDENT.

FINAL ORDER

Pursuant to notice, the undersigned telephonically convened an administrative hearing in the above-referenced matter at 1:20 p.m. on April 28, 2014.

APPEARANCES

For the Petitioner:  pro se

For the Respondent: Eric Renegar, ACCESS supervisor

STATEMENT OF ISSUE

At issue is respondent's action to deny petitioner Medicaid due to not cooperating with the Department of Revenue, Child Support Enforcement (CSE).

PRELIMINARY STATEMENT

By notice dated February 20, 2014, respondent notified petitioner Medicaid was denied due to failure to cooperate with CSE. Petitioner timely requested a hearing to challenge the Medicaid denial.

Appearing as a witness for respondent was Valina Smalls, Department of Revenue administrator. Appearing as observers were Charles Barresi, Access economic sufficiency specialist II and Larry Labelle, hearing officer.

Petitioner did not submit exhibits into evidence. Respondent submitted four exhibits, entered as Respondent's Exhibits "1" through "4". The record was closed on April 28, 2014.

FINDINGS OF FACT

1. Prior to the action under appeal (April 10, 2013) respondent received an electronic notification from CSE to sanction petitioner due to non-cooperation.
2. Petitioner submitted an application for Medicaid on February 19, 2014. Petitioner's household includes petitioner and her three year old child. Medicaid for petitioner's child is not an issue.
3. Respondent explained that to be eligible for Medicaid benefits applicants with minor children must cooperate with CSE. Petitioner was not eligible for Medicaid benefits due to the imposition of a child support sanction for not cooperating with CSE.
4. Respondent mailed petitioner a Notice of Case Action on February 20, 2014 notifying Medicaid was denied due to failure to cooperate with CSE.
5. Petitioner asserted that her child's father provides financial assistance and "she will not put him in child support" because he is a good father.
6. Ms. Smalls, respondent's witness, testified that petitioner has not cooperated with CSE since 2011.
7. Petitioner asserted that she is in desperate need of medical assistance and does not agree with the Medicaid denial simply because she will not cooperate with CSE.

CONCLUSIONS OF LAW

8. 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.

9. This proceeding is a de novo proceeding pursuant to Fla. Admin. Code § 65-2.056.

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

11. Fla. Stat. § 409.2572 Cooperation, in part states:

(1) An applicant for, or recipient of, public assistance for a dependent child shall cooperate in good faith with the department or a program attorney in:

(a) Identifying and helping to locate the alleged parent or obligor.

(b) Assisting in establishing the paternity of a child born out of wedlock.

(c) Assisting in obtaining support payments from the obligor.

(d) Assisting in obtaining any other payments or property due from the obligor.

(e) Identifying another putative father when an earlier named putative father has been excluded by DNA, Human Leukocyte Antigen, or other scientific test.

(f) Appearing at an office of the department, or another designated office, as necessary to provide verbal or written information, or documentary or physical evidence, known to, possessed by, or reasonably obtainable by the applicant or recipient.

(g) Appearing as a witness at judicial or other hearings or proceedings.

(h) Providing information under oath regarding the identity or location of the alleged father of the child or attesting to the lack of information.

(i) Paying to the department any support received from the obligor after the assignment is effective.

(2) Noncooperation, or failure to cooperate in good faith, is defined to include, but is not limited to, the following conduct:

(a) Refusing to identify the father of the child, or where more than one man could be the father of the child, refusing to identify all such persons.

(b) Failing to appear for two appointments at the department or other designated office without justification and notice.

(c) Providing false information regarding the paternity of the child or the obligation of the obligor.

(d) All actions of the obligee which interfere with the state's efforts to proceed to establish paternity, the obligation of support, or to enforce or collect support.

(e) Failure to appear to submit a DNA sample or leaving the location prior to submitting a DNA sample without compelling reasons.

(f) Failure to assist in the recovery of third-party payment for medical services.

(3) The Title IV-D staff of the department shall be responsible for determining and reporting to the staff of the Department of Children and Family Services acts of noncooperation by applicants or recipients of public assistance. Any person who applies for or is receiving public assistance for, or who has the care, custody, or control of, a dependent child and who without good cause fails or refuses to cooperate with the department, a program attorney, or a prosecuting attorney in the course of administering this chapter shall be sanctioned by the Department of Children and Family Services pursuant to chapter 414 and is ineligible to receive public assistance until such time as the department determines cooperation has been satisfactory...

12. The Code of Federal Regulations 42 C.F.R. § 435.610 Assignment of Right to Benefits, in part states:

(a) As a condition of eligibility, the agency must require legally able applicants and beneficiaries to...

(2) Cooperate with the agency in establishing paternity and in obtaining medical support and payments, unless the individual establishes good cause for not cooperating, and except for individuals described in section 1902 (1) (1) (A) of the Act (poverty level pregnant women), who are exempt from cooperating in establishing paternity and obtaining medical support and payments from, or derived from, the father of the child born out of wedlock; and

(3) Cooperate in identifying and providing information to assist the Medicaid agency in pursuing third parties who may be liable to pay for care and services under the plan, unless the individual establishes good cause for not cooperating.

13. In accordance with the above authorities, an applicant for Medicaid benefits must cooperate with CSE as a condition of eligibility; unless, there is a determination of good cause. Petitioner did not have good cause for not cooperating. Petitioner argued that she did not "want to put her child father's in child support because he is a good father".

14. The Department's Transmittal No. P14-01-001 dated January 24, 2014, Exceptions to the Requirement that Child Support Enforcement (CSE) Lift Sanctions, in part states:

Remove CSE imposed sanctions for noncooperation without CSE approval in the following situations:

- When the last child subject to cooperation leaves the home
- When the last child subject to cooperation turns 18
- When the absent parent, based on established legal paternity, moves into the home and
- When a non-legal parent moves into the home and completes the DH 432 acknowledging paternity and staff forwards the completed DH 432 to CSE or the Department of Health State Office of Vital Statistics.

15. Petitioner did not meet any of the CSE exceptions listed in the above Transmittal.

Therefore, respondent was unable to lift the CSE sanction.

16. In careful review of the cited authorities, the Department's Transmittal and evidence, the undersigned concludes the respondent followed rule in denying petitioner Medicaid benefits due to not cooperating with CSE.

DECISION

Based upon the foregoing Findings of Fact and Conclusions of Law, the appeal is denied and the respondent's action 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 5th day of June, 2014,

in Tallahassee, Florida.

Priscilla Peterson
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Copies Furnished To: [REDACTED] Petitioner
ACCESS Keith Carpenter