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

[redacted]

PETITIONER,

Vs.

APPEAL NO. 14F-02858

CASE NO. 1431676578

FLORIDA DEPARTMENT OF CHILDREN AND FAMILIES
CIRCUIT: 07 St. Johns
UNIT: 88323

RESPONDENT.
_____/

FINAL ORDER

Pursuant to notice, the undersigned convened a telephonic administrative hearing in the above-referenced matter on June 9, 2014 at 9:05 a.m.

APPEARANCES

For the Petitioner: The petitioner was not present and was represented by Louis Lockett, Medicaid representative with Chamberlin Edmonds.

For the Respondent: Diane Washington, Economic Self-Sufficiency Specialist II (ESSSII) with the Department of Children and Families (DCF).

STATEMENT OF ISSUE

The petitioner is appealing the Department's decision to deny retroactive Medicaid benefits for the month of November 2013.

PRELIMINARY STATEMENT

Appearing as a witness for the Department was Viola Dickinson, ESSSII for DCF.

The Department filed a Motion to Dismiss due to its belief that the petitioner moved out of the home in December 2013 and did not return to the home until February 2014; therefore, she was ineligible for Medicaid during that time period because she was not in the home with her children, from whom she would derive her eligibility for Medicaid.

The petitioner's representative explained that Chamberlin Edmonds is seeking retroactive Medicaid coverage for the month of November 2013 and that the petitioner was living in the home with her children during that month.

Based on the testimony presented, the undersigned concludes that the petitioner was residing in the home during the retroactive month in question. Therefore, the Department's Motion to Dismiss on this argument is denied.

The Department also requested for a dismissal on its contention that the petitioner or the petitioner's representative's failed to request an appeal within 90 days of the Notice of Case Action. It is the Department's contention that the Notice of Case Action was sent to the petitioner on December 26, 2013 and the appeal was not requested until April 9, 2014, which is over the time limit for which to request an appeal.

The petitioner's representative contends that the denial notice sent by the Department on December 26, 2013 was sent to the petitioner but not to Chamberlin Edmonds. The Department confirms this as correct.

Based on the evidence and testimony presented, the hearing officer finds that the petitioner's representative did not receive the Notice of Case Action at issue. In the absence of a notice, there is no time limit to appeal, therefore, the undersigned has jurisdiction over this matter. The Department's Motion to Dismiss on the basis of an untimely appeal is denied.

The record was held open until 5:00 p.m. on June 10, 2014 to allow the petitioner to submit additional evidence. Evidence was received and entered as the Petitioner Exhibit 2.

FINDINGS OF FACT

1. The petitioner was admitted into Flagler Hospital on November 26, 2013. The itemized statement lists the petitioner's address at the time of admission as [redacted] Florida 32082.

2. On November 27, 2013, the designated representative for Chamberlin Edmonds applied for Medicaid on behalf of the petitioner for the month of November 2013, and included the petitioner's husband and their two children on the application.

3. The Department sent to the petitioner and Chamberlin Edmonds the Notice of Case Action on December 3, 2013 to request for her to submit proof of all gross income from the last four weeks, proof of loans, contributions, or gifts, complete and sign the "Financial Information Release" form, proof of identification, proof of citizenship, proof of income and assets for requested month of retroactive Medicaid, due by December 13, 2013.

4. The Department did not receive the requested information and denied the petitioner's application for Medicaid. On December 26, 2013, the Notice of Case Action was mailed to the petitioner to inform her of the denial of her application for Medicaid.

5. The petitioner's representative acknowledges that the requested information requested by the Department was not provided until January 2014. The petitioner's representative argues that the petitioner's application should have been reviewed under the Department's 60 day rule policy since the documents were provided on the 40th day. The petitioner's representative did not indicate if he contacted the Department to inform of any difficulties in obtaining the required verifications before the 30th day from the date of application or when the verifications were provided in January 2014.

6. The Department contends that there was not a request made by the petitioner's representative to review the petitioner's case using the 60 day rule. It is the Department's contention that the verifications received by the petitioner did not include the husband's income, his photo identification, and birth certificate.

7. The petitioner's representative argues that the husband's income was provided and believes that the Department had the option of approving the petitioner and denying the husband for Medicaid if his information were missing. The petitioner's representative did not get a response from the Department on his request for 60 day rule; therefore, another application for Medicaid was filed on behalf of the petitioner on February 25, 2014 (Petitioner Exhibit 2). This was not disputed. The petitioner's representative argues that the Department still did not explore his request for retroactive coverage for the month of November 2013, which is one of the three months prior to the

month of application. There was no indication that the retroactive month requested had been disposed of.

8. The Department contends that there was a discrepancy in the income verification that was provided because the stated income on the contributions letter was not sufficient to meet the petitioner's expenses. The Department contends that it is not a requirement for the case processors to contact applicants to inform them of missing items or to receive clarification when reviewing applications under the 60 day rule. Therefore, no further action was taken to review the application using the 60 day rule. The Department acknowledges that the petitioner's representative provided verifications for the petitioner's husband in March 2014.

CONCLUSIONS OF LAW

9. 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 § 409.285, Fla. Stat.

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

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

12. Fla. Admin. Code R. 65A-1.702 Special Provisions states in part:

> (9) Retroactive Medicaid. Retroactive Medicaid is based on an approved, denied, or pending application for ongoing Medicaid benefits.
> (a) Retroactive Medicaid eligibility is effective no later than the third month prior to the month of application for ongoing Medicaid if the individual

would have been eligible for Medicaid at the time of application for Medicaid covered services.

13. The Department's ACCESS Florida Program Policy Manual, 165-22, section 0630.0509 Retroactive Medicaid (MFAM) states, "Medicaid is available for any one or more of the three calendar months preceding the application month, provided: 1. at least one member of the AG has received Medicaid reimbursable services during the retroactive period; 2. the individual meets all factors of eligibility during the month(s) he requests retroactive Medicaid."

14. The above authorities explain that retroactive Medicaid is available to an applicant for any of the three calendar months prior to the month of an application that has been approved, or is in a pending or denial status, as long as the applicant has received services reimbursable by Medicaid and meets all eligibility criteria.

15. The Department's ACCESS Florida Program Policy Manual, 165-22, section 0630.0111 Medical Provider Referrals (MFAM), states in part, "Hospitals and other Medicaid providers refer individuals who are potentially eligible for Medicaid. Upon receipt of a referral, contact the individual, determine eligibility status and notify the provider of the disposition..."

16. The above authority explains that hospitals and other Medicaid providers refer individuals who are potentially eligible for Medicaid. A designated representative may also be appointed to act on behalf of the applicant.

17. The Department's ACCESS Florida Program Policy Manual, 165-22, section 0630.0401 Requests for Additional Information/Time Standards (MFAM) states:

> At the individual's request, extend the due date. Leave the case pending until the 30th day after the date of application to allow the household a chance to provide verifications. Assist applicants with getting missing verifications when needed.
> 2. If the household does not return the verifications by the 30th day after the date of application, deny the application on the 30th day. If the 30th day falls on a weekend or holiday, deny the application on the next business day after the 30th day.
> 3. If the household returns the verifications after the 30th day but by the 60th day, approve the application as soon as possible following receipt of the verifications as long as disposal occurs by the 60th day. Do not require a new application.
>
> Apply retroactive Medicaid policy to months prior to the original month of application.

18. The above authority explains that the due date to submit verifications for a Medicaid application may be extended at the applicant's request. The Department should assist applicants to obtain missing verifications when needed. The Medicaid application must be disposed by the 30th day after the date of the application. If the 30th day falls on a weekend or holiday, deny the application on the next business day after the 30th day. If the verifications are returned after the 30th day but within 60 days, approve the application as long as the disposal is done by the 60th day. A new application is not required.

19. In this case, the petitioner's representative argues that he did not receive a response to the verifications provided in January 2014 to be reviewed under the Department's 60 day policy. The Department contends that all the required verifications were not submitted to approve the application using its 60 day policy. Therefore, no action was taken to establish retroactive Medicaid coverage for the month at issue. There was no evidence presented to show that the petitioner's representative informed

the Department of any assistance needed in obtaining the requested verifications. However, the petitioner's representative completed another Medicaid application in February 2014, to include retroactive Medicaid coverage for the month of November 2013. The Department did not explore his request for retroactive Medicaid for the month of November 2013 in its determination of eligibility for the petitioner.

20. After considering the evidence and all of the appropriate authorities set forth above, the hearing officer concludes that the Department's action to deny retroactive Medicaid for the month of November 2013 (or take no action as there is no evidence of a denial notice for this month) is incorrect. The month of November 2013 is included as one of the three months prior to the application that can be considered for retroactive Medicaid. Therefore, the undersigned concludes that the Department will need to complete a Medicaid eligibility determination for the retroactive month in question.

DECISION

Based upon the foregoing Findings of Fact and Conclusions of Law, the appeal is granted and remanded for the Department to complete a determination of eligibility for Medicaid benefits for the requested retroactive month of November 2013. Once a determination is made, the Department is to issue a notice to both petitioner and the representative.

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 30th day of June, 2014,

in Tallahassee, Florida.

Paula Ali
Hearing Officer
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Copies Furnished To: [redacted] Petitioner
ACCESS Circuit 7 - Lynn Dann