

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

**FILED**

FEB 16 2015

OFFICE OF APPEAL HEARINGS  
DEPT. OF CHILDREN & FAMILIES

APPEAL NO. 14F-9436

PETITIONER,

Vs.

CASE NO. [REDACTED]

FLORIDA DEPARTMENT OF  
CHILDREN AND FAMILIES  
CIRCUIT: 11 Dade  
UNIT: 66702

RESPONDENT.

**FINAL ORDER**

Pursuant to notice, the undersigned convened a telephonic administrative hearing in the above-referenced matter on December 24<sup>th</sup>, 2014 at 9:30 a.m.

**APPEARANCES**

For the Petitioner: [REDACTED] pro se.

For the Respondent: Kenisha Henley, Supervisor for the Economic Self-Sufficiency program (ESS).

**ISSUE**

The petitioner is appealing the respondent's intention to deny her application for Medicaid.

**PRELIMINARY STATEMENT**

Serving as a translator was Sabina Alvarez, employee identification number 19975 of Language Line Solutions.

Appearing as a witness for the petitioner was [REDACTED], the petitioner's husband.

Appearing as an observer was Melissa Diaz, Operations Management Consultant for ESS.

No evidence from either party was received in time for the hearing. The record was held open until the close of business January 5<sup>th</sup>, 2015 to allow both parties to submit evidence. Documents were received from the respondent within the allowed time frame and were moved into evidence as Respondent's Exhibits 1 through 3. The petitioner did not submit any documents for consideration.

By Notice of Case Action dated October 20<sup>th</sup>, 2014 (Spanish version), the respondent informed the petitioner that her application for Medicaid was denied. The reason given is that "No household members meet the requirements for this program." On November 6<sup>th</sup>, 2014, the petitioner filed a timely appeal to challenge this action.

#### **FINDINGS OF FACT**

1. The petitioner (58 years of age) resides with her husband. They have no minor children in their custody.

2. The petitioner applied for Medicaid for the first time on October 14<sup>th</sup>, 2014.  
(See Respondent's Exhibit 3.)

3. On this application, the petitioner answered "No" to the question of disability.  
(See page 3 of 5 of the exhibit.) The respondent explained that because the petitioner declared to the Department that she was not disabled, a review to determine eligibility for Medicaid based on disability was not explored

4. The respondent contends that because the petitioner is under the age of 65 years, is not disabled, and has no child under the age of 18 years in her custody, she is not eligible for Medicaid

5. The petitioner asserts that she needs Medicaid because she has numerous medical issues (such as neck problems, dizzy spells, and the inability to stand for lengthy periods of time) for which she has been hospitalized several times. The petitioner contends that she has no medical insurance, and therefore, is seeking the assistance of Medicaid to cover her medical expenses.

#### **CONCLUSIONS OF LAW**

6. The Department of Children and Families, Office of Appeal Hearings, has jurisdiction over the subject matter of this proceeding and the parties, pursuant to § 409.285, Fla. Stat. This order is the final administrative decision of the Department of Children and Families under Fla. Stat. § 409.285.

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

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

9. The Florida Administrative Code, Section 65A-1.710 et seq., sets forth the rules of eligibility for Elderly and Disabled Individuals Who Have Income of Less Than the Federal Poverty Level. For an individual who does not have custody of minor children, is not pregnant, and is 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 regulations state, in part:

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 which makes you unable to do your previous work or any other substantial gainful activity which exists in the national economy...

10. The above regulations state that individuals under the age of 65 years of age who are not pregnant, or have no minor children in their custody, must meet the criteria for disability in order to qualify for Medicaid. As the petitioner stated that she was not disabled when she applied, the respondent did not explore disability-related Medicaid for the petitioner. Furthermore, the petitioner presented no proof of disability for consideration at the hearing.

11. However, the respondent suggested that petitioner complete a new application for Medicaid benefits, and based on the claim of her conditions, her eligibility for Medicaid through the Division of Disability Determination (DDD) can be initiated. The petitioner expressed interest in doing this, and the respondent offered to make arrangements after the hearing to begin this process.

12. Based on the regulations cited above, the hearing officer concludes that the respondent was correct in denying the petitioner's application for Medicaid, as no claim of disability was made. Therefore, this appeal is hereby denied.

**DECISION**

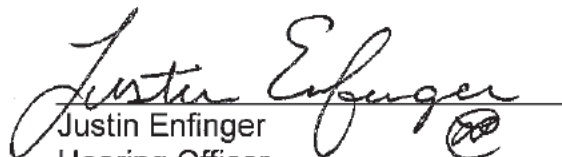
Based upon the foregoing Findings of Fact and Conclusion of Law, the appeal is  
DENIED.

**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 Department has no funds to assist in this review, and any financial obligations incurred will be the petitioner's responsibility.

DONE and ORDERED this 16<sup>th</sup> day of February, 2015,

in Tallahassee, Florida.



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