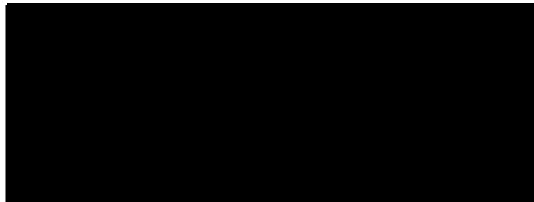


STATE OF FLORIDA
DEPARTMENT OF CHILDREN AND FAMILIES
OFFICE OF APPEAL HEARINGS

FILED

MAR 16 2015

OFFICE OF APPEAL HEARINGS
DEPT. OF CHILDREN & FAMILIES



APPEAL NO. 15F-00115

PETITIONER,

Vs.

CASE NO. 

FLORIDA DEPARTMENT OF
CHILDREN AND FAMILIES
CIRCUIT: 15 Palm Beach
UNIT: 88322

RESPONDENT.

FINAL ORDER

Pursuant to notice, an administrative hearing was convened telephonically before the undersigned hearing officer on February 9, 2014 at 3:45 p.m.

APPEARANCES

For the Petitioner: Luz Carvajal, medical eligibility program, Conifer Health, St Mary's Hospital

For the Respondent: Mary Triplett, ACCESS senior worker.

STATEMENT OF ISSUE

The petitioner is appealing the respondent's action of denying her Emergency Medicaid for Alien (EMA) benefits for and Medicaid coverage for her newborn.

PRELIMINARY STATEMENT

The petitioner presented one exhibit which was entered into evidence as Petitioner's Composite Exhibit 1. The respondent provided one exhibit which was entered into evidence as Respondent's Composite Exhibit 1. The record was held open

until February 13, 2015 for the respondent to provide evidence that it re-determined eligibility. The information was received, entered into evidence and marked as Respondent's Exhibit 2.

FINDINGS OF FACT

1. On November 24, 2014, the petitioner's representative submitted an application for Emergency Medicaid for Alien (EMA) coverage for petitioner for the period November 2, 2014 through November 5, 2014, and Medicaid benefits for her new born. Listed on her application was herself, her husband and her three children. Only the newborn had legal status. Her husband is self-employed and paid expenses for rent, electricity and telephone.
2. On November 24, 2014, the petitioner's representative submitted the petitioner's husband income, proof of a request for a social security number and proof of the baby's birth as an attachment.
3. On November 24, 2014, the representative also sent an email to the Department's supervisor with the following documents attached: proof of income, birth, and the application for a social security number. Photo identification cards for the petitioner and her husband were also attached.
4. On December 1, 2014, the respondent mailed a Notice of Case Action requesting Immigration and Naturalization Status (INS), proof of birth, social security numbers for all household members and the last four weeks of income. The due date to provide the information was December 11, 2014. The respondent sent a second notice on December 2, 2014, requesting the petitioner to sign a financial release form. The due date given was December 12, 2014.

5. On December 12, 2014, the petitioner's representative sent a second email to the Department's supervisor inquiring about the case status.
6. On December 18, 2014, the case processor replied to the representative's email explaining that the case was pending, he had 30 days to complete it and it would be processed as soon as possible.
7. On December 24, 2014, the representative requested a hearing.
8. On December 29, 2014, the respondent sent the petitioner a Notice of Case Action informing the petitioner that all members were ineligible. The reasons given for the denial were the earnings for the group was too high to qualify for the program, she did not comply with citizenship requirements and she did not provide the information required to determine eligibility.
9. At the hearing, the respondent acknowledged it received the information needed to process the petitioner's case by the due date. The respondent agreed to re-determine eligibility for EMA and coverage for the newborn. The undersigned received proof of eligibility coverage for the EMA dates for the petitioner and eligibility for the newborn for November 2014. There were no proof of eligibility for December 2014 ongoing.

CONCLUSIONS OF LAW

10. 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.

11. This proceeding is a de novo proceeding pursuant to Fla. Admin. Code R. 65-2.056.
12. The burden of proof is assigned to the petitioner pursuant to the Fla. Admin. Code R. 65-2.060 (1).
13. As the respondent provided proof of EMA coverage for November 2, 2014 through November 5, 2015, the issue is now moot. The only issue left is Medicaid coverage for new born for the birth month and ongoing.

Medicaid coverage for the petitioner's newborn will now be addressed.

14. The Florida ACCESS Program Policy Manual (The Policy Manual), 165-22, section 0630.0101 Date of Application (MFAM) states:

For all households in which the PIP is a member (except sponsors), or is acting as a designated representative, the date of application is the date the Department receives a signed application. When an applicant submits a paper application or verification, the scan/fax date is the date of receipt and the application date. If the Department receives a web-based or facsimile application after normal business hours, establish the first business day following receipt as the application date.
15. The Policy Manual at section 0630.0110 Rights and Responsibilities (MFAM) states:

Each individual has the right to file an application, have an interview if requested and have a determination of eligibility. Inform applicants of their rights and responsibilities.
The household has the primary responsibility to obtain and provide information required to determine eligibility for benefits. If the applicant is unable to obtain information, assist the individual by providing addresses, writing to other agencies and obtaining medical reports and all other necessary information.
16. The Policy Manual at section 0630.0500 determination of eligibility (MFAM) states:

An AG must meet all factors of eligibility to be determined eligible for assistance on an ongoing basis. Approve or deny the application immediately upon receiving all information. Do not delay the decision to approve or deny a case while awaiting information that is not directly related to a factor of eligibility.

17. The petitioner's representative submitted an application for Medicaid benefits for her newborn. According to the above cite, the petitioner has the right to have eligibility determined for the newborn. The Department agreed to determine eligibility for the newborn; however, no evidence was presented to show coverage for the newborn beyond the birth month. This case is remanded to the Department to determine eligibility for the newborn for December 2014 ongoing, if it has not already done so.

DECISION

Based upon the foregoing Findings of Fact and Conclusions of Law, this appeal is partially granted and partially denied.

The appeal is granted and remanded to the Department to determine coverage for the newborn beyond the birth month (effective December 2014). Once the determination is completed, the petitioner is to be notified of the outcome with a written notice that includes appeal rights.

The appeal is denied in part as EMA benefits for the petitioner for the dates of service requested and Medicaid for the newborn for the month of birth has been provided. These issues are moot.

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 16th day of March, 2015,

in Tallahassee, Florida.


Christiana Gopaul-Narine

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