

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

**FILED**

**APR 27 2015**

OFFICE OF APPEAL HEARINGS  
DEPT OF CHILDREN & FAMILIES



APPEAL NO. 15F-00527

PETITIONER,

Vs.

CASE NO. 

FLORIDA DEPT OF  
CHILDREN AND FAMILIES  
CIRCUIT: 05 Lake  
UNIT: 88999

RESPONDENT.

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**FINAL ORDER**

Pursuant to notice, the undersigned scheduled a telephonic administrative hearing in the above-referenced matter on February 18, 2015 at 3:45 p.m. The hearing was continued and convened on March 16, 2015 at 3:00 p.m. at the petitioner's request.

**APPEARANCES**

For the petitioner:  Designated Representative for 

For the Respondent: Raymond Seigler, ACCESS Supervisor

**STATEMENT OF ISSUE**

Petitioner is appealing the Department's action to deny his Institutional Care Program (ICP) Medicaid application.

### **PRELIMINARY STATEMENT**

By notice dated September 25, 2014, the respondent notified the petitioner that his Medicaid application dated June 23, 2014 was denied as they "did not receive all the information requested to determine eligibility." The petitioner timely requested this administrative hearing to challenge the Medicaid denial.

The petitioner did not submit any exhibits. The respondent submitted an exhibit, which was accepted into evidence and marked as Respondent Composite Exhibit 1. The record was held open through March 19, 2015 for the respondent to supplement the record. No additional information was provided by the respondent. The record closed on March 19, 2015.

### **FINDINGS OF FACT**

1. The petitioner was admitted to [REDACTED] facility on December 23, 2013 and was discharged on April 5, 2014.
2. The staff at the nursing facility submitted two applications for ICP Medicaid on the petitioner's behalf; one was submitted on March 20, 2014 and the other one was submitted on June 23, 2014. There was no income or assets listed for the petitioner on the June 23, 2014 application. The comments on that application indicated the nursing facility was seeking ICP Medicaid for the petitioner from January 1, 2014 through his discharge date of April 5, 2014.
3. When the petitioner's Social Security Administration (SSA) benefits were verified electronically by the respondent, it was discovered he had a bank account with Direct Express into which his SSA benefits were deposited.

4. On the June 23, 2014 application, the petitioner's representative expressed difficulty in obtaining the required bank statements from Direct Express and requested assistance from the respondent.

5. On July 21, 2014, a Notice of Case Action was issued by the respondent requesting the following information by July 31, 2014:

- Please Complete and sign the "Financial Information Release" form
- Other – please see comments below:
  1. Submit form 3008 and informed consent to cares unit.
  2. Complete and submit a designated representative form.
  3. Even though he has a direct express, they still issue statements for him, need bank statements from 12/2013 to present or to the month he needs coverage.
  4. Need signed financial information release form.

6. On September 25, 2014, the respondent denied the petitioner's Medicaid application and issued a Notice of Case action notifying the petitioner that his Medicaid application was denied for June, 2014 as they "did not receive all the information requested to determine eligibility." The respondent explained this was the only notice sent to the petitioner because both the March 20, 2014 and the June 23, 2014 applications were processed on September 25, 2014 due to a backlog of work. Although eligibility for January, 2014 through April, 2014 (which was being sought by the petitioner) was not included in the notice, the respondent explained the petitioner was ineligible for those months as well because his bank account information was not provided.

7. The petitioner's representative explained that when the petitioner was at the facility, they attempted to have him set up access to his account online. However, this attempt was unsuccessful as he couldn't remember which zip code he had used when the account was first opened. She also indicated they have attempted on several

occasions to locate the petitioner and his family to obtain the banks statements but have been unable to do so.

8. The respondent sent a bank account verification request to Direct Express on January 27, 2015; however, it was sent to the wrong address. Another bank account verification request was resent to the correct address by the respondent on February 28, 2015. As of the date of the hearing, no response had been received to the request sent to Direct Express.

9. The respondent explained that without verification of the petitioner's bank account, his eligibility for Medicaid cannot be determined.

#### **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 Fla. Stat. § 409.285. 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. In accordance with Fla. Admin. Code R. 65-2.060(1), the burden of proof was assigned to the petitioner.

13. Fla. Admin. Code R. 65A-1.710 defines SSI-Related Medicaid Coverage Groups and states in part:

The Department covers all mandatory coverage groups and the following optional coverage groups:

...  
(2) Institutional Care Program (ICP). A coverage group for institutionalized aged, blind or disabled individuals (or couples) who would

be eligible for cash assistance except for their institutional status and income as provided in 42 C.F.R. §§ 435.211 and 435.236. Institutional benefits include institutional provider payment or payment of Medicare coinsurance for skilled nursing facility care.

14. The Code of Federal Regulations at 20 C.F.R. § 416.1201 "Resources; general" states:

(a) *Resources; defined.* For purposes of this subpart L, resources means cash or other liquid assets or any real or personal property that an individual (or spouse, if any) owns and could convert to cash to be used for his or her support and maintenance.

...  
(b) *Liquid resources.* Liquid resources are cash or other property which can be converted to cash within 20 days, excluding certain nonwork days as explained in § 416.120(d). Examples of resources that are ordinarily liquid are stocks, bonds, mutual fund shares, promissory notes, mortgages, life insurance policies, financial institution accounts (including savings, checking, and time deposits, also known as certificates of deposit) and similar items. Liquid resources, other than cash, are evaluated according to the individual's equity in the resources. (See § 416.1208 for the treatment of funds held in individual and joint financial institution accounts.)

15. Fla. Admin. Code R. 65A-1.716 establishes the "resource limits for SSI-Related Programs as \$2,000 per individual."

16. Based on the above authorities, bank accounts are considered countable assets for the SSI-Related Medicaid Programs, including ICP. Therefore, the respondent was correct to request verification of the petitioner's checking account as they must determine if he meets the established asset limits.

17. Fla. Admin. Code R. 65A-1.205 addresses the eligibility determination process and states in relevant part:

...  
(a) The Department must determine an applicant's eligibility initially at application...**It is the applicant's responsibility to keep appointments with the eligibility specialist and furnish information, documentation and verification needed to establish eligibility.** [emphasis added] If the

Department schedules a telephonic appointment, it is the Department's responsibility to be available to answer the applicant's phone call at the appointed time. If the information, documentation or verification is difficult for the applicant to obtain, the eligibility specialist must provide assistance in obtaining it when requested or when it appears necessary.

(c) If the eligibility specialist determines during the interview or at any time during the application process that the applicant must provide additional information or verification..., the eligibility specialist must give the applicant written notice to provide the requested information or to comply, allowing ten calendar days from request or the interview; whichever is later. For all programs, verifications are due ten calendar days from the date of written request or interview, or 60 days from the date of application, whichever is later... If the applicant does not provide required verifications or information by the deadline date the application will be denied, unless the applicant requests an extension or there are extenuating circumstances justifying an additional extension...

18. The findings show the petitioner's representative was not able to verify the petitioner's bank account information. The respondent attempted to obtain the required asset verification directly from Direct Express without success.
19. As the petitioner's bank account information could not be verified, his eligibility for ICP could not be determined.
20. Although Fla. Admin. Code R. 65A-1.205(a) directs the respondent to provide verification assistance, the ultimate responsibility for providing verification needed to establish eligibility rests with the petitioner.
21. The burden of proof in this matter was assigned to the petitioner. In accordance with Fla. Admin. Code R. 65-2.060(1) "the party having the burden shall establish his/her position, by a preponderance of evidence, to the satisfaction of the hearing officer."
22. After careful review of the evidence and controlling legal authorities, the undersigned finds the petitioner failed to establish, by the required evidentiary standard,

that the respondent's action in this matter was incorrect. The undersigned concludes the respondent was correct to deny the petitioner's ICP Medicaid application as verification of his bank account was not provided.

**DECISION**


Based upon the foregoing Findings of Fact and Conclusions 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 petitioner is responsible for any financial obligations incurred as the Department has no funds to assist in this review.

DONE and ORDERED this 2<sup>nd</sup> day of April, 2015,

in Tallahassee, Florida.

  
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Copies Furnished To: [REDACTED] Petitioner  
Office of Economic Self Sufficiency