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APR 06 2015

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

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DEPT OF CHILDREN & FAMILIES



APPEAL NO. 15F-00533

PETITIONER,
Vs.

CASE NO. 

FLORIDA DEPT OF
CHILDREN AND FAMILIES
CIRCUIT: 10 Polk
UNIT: 88999

RESPONDENT.

_____ /

FINAL ORDER

Pursuant to notice, the undersigned convened a telephonic administrative hearing in the above-referenced matter on March 18, 2015 at 1:00 p.m.

APPEARANCES

For the petitioner: Nancy Robbins, Designated Representative for Susan Silk
For the Respondent: Raymond Seigler, ACCESS Supervisor

STATEMENT OF ISSUE

Petitioner is appealing the Department's action to deny her Hospice Medicaid Program application for July 2014.

PRELIMINARY STATEMENT

By notice dated October 28, 2014, the respondent notified the petitioner that her Medicaid application was denied as they "did not receive proof of the value of assets."

The petitioner timely requested this administrative hearing to challenge the Medicaid denial.

The petitioner did not submit any exhibits. The respondent submitted six exhibits, which were accepted into evidence and marked as Respondent Exhibits "1" through "6" respectively. The record closed on March 18, 2015.

FINDINGS OF FACT

1. The petitioner was certified for Hospice Services on July 4, 2014 and passed away on July 5, 2014.
2. On September 26, 2014, a self-appointed representative from MedAssist applied for Hospice Medicaid for the petitioner for July 2014. There was no income or assets listed for the petitioner on that application.
3. On October 3, 2014, a Notice of Case Action was issued by the respondent requesting the following information by October 13, 2014:
 - Proof of income and assets for each month you are requesting retroactive Medicaid
 - Other – please see comments below:
 - The following information is needed to complete this application: signed financial release/bank statements begin date 4/2014.
4. On October 28, 2014, the respondent denied the petitioner's Medicaid application and issued a Notice of Case action notifying the petitioner that her Medicaid application was denied for September 2014, October 2014, November 2014 and December 2014 as they "did not receive proof of value of assets." Although eligibility for July 2014 was not included in the notice, the respondent explained the petitioner was potentially eligible for Medicaid benefits for three months prior to the date of her application.

5. The petitioner's representative contacted the respondent on December 11, 2014 inquiring about the denial and was advised the petitioner had a checking account with Suntrust Bank (this information had been reported by the petitioner on previous applications) which needed to be verified before her July 2014 Medicaid eligibility could be determined.
6. The petitioner's representative was unable to obtain a Financial Information Release (Form 2613) signed by the petitioner as she had passed away before MedAssist got the referral to apply for Medicaid for her. She also indicated MedAssist was unable to obtain any bank statements to provide to the respondent as the petitioner's family was uncooperative.
7. The petitioner's representative requested assistance from the respondent in obtaining verification of the petitioner's checking account.
8. The respondent sent a bank account verification request to Suntrust Bank on February 23, 2015 requesting the information needed to process the petitioner's Medicaid application.
9. On March 9, 2015, Suntrust Bank responded explaining they were unable to verify any information concerning the petitioner's checking account as the proper authorization from the petitioner was missing.

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:

...

(3) Hospice Program. A coverage group for terminally ill individuals (or couples) who elect hospice services and who meet all categorical or Medically Needy eligibility criteria, and who also meet special Medicaid hospice requirements as provided in 42 U.S.C. § 1396d(a), subsection 65A-1.711(3) and Rule 65A-1.713, F.A.C.

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 the Hospice Program. Therefore, the respondent was correct to request verification of the petitioner's checking account as they must determine if she 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 Suntrust Bank without success. The bank would not release any information without proper authorization from the petitioner.

19. As the petitioner's bank account information could not be verified, eligibility for the Hospice Medicaid Program 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 Hospice Medicaid Program application as verification of her bank account was never 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 10th day of April, 2015,

in Tallahassee, Florida.


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