

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

**FILED**

**MAR 31 2015**

OFFICE OF APPEAL HEARINGS  
DEPT OF CHILDREN & FAMILIES



APPEAL NO. 15F-00966

PETITIONER,

Vs.

CASE NO. 

FLORIDA DEPARTMENT OF  
CHILDREN AND FAMILIES  
CIRCUIT: 15 PALM BEACH  
UNIT: 88322

RESPONDENT.

**FINAL ORDER**

Pursuant to notice, the undersigned convened a telephonic administrative hearing in the above-referenced matter on March 11, 2015 at 10:08 a.m.

**APPEARANCES**

For the petitioner: Luz Carvajal, Patient Advocate II, Conifer Health

For the respondent: Shirley Stringer, ACCESS supervisor

**STATEMENT OF ISSUE**

The petitioner is appealing denial of her application for Medicaid benefits.

**PRELIMINARY STATEMENT**

The respondent presented one composite exhibit, which was accepted, entered into evidence and marked as Respondent's Composite Exhibit 1. The petitioner presented one composite exhibit which was accepted, entered into evidence and marked as Petitioner's Composite Exhibit 1. The record was held open until the close of

business on March 11, 2015, for additional evidence from the petitioner. It was received, entered into evidence and marked as Petitioner's Composite Exhibit 2. The record was closed. The petitioner submitted evidence after the record was closed, which has not been admitted into evidence.

#### FINDINGS OF FACT

1. On December 1, 2014, the petitioner submitted an application for Family Related Medicaid for the petitioner's newborn and Emergency Medicaid for Aliens (EMA) for November 2014 for the petitioner. The petitioner's household composition consists of herself, her husband and their four children. Her husband is employed and paid \$500 per week.
2. On December 4, 2014, the Department requested (pending) proof of gross income for the last four weeks of income.
3. On December 02, 2014, the petitioner sent her husband's work calendar to the Department. The Department did not accept the work calendar because [REDACTED] was listed as her husband's employer and the work calendar can only be used for self-employment.
4. On December 16, 2014, the representative emailed the case processor to find out the status of the case. The Department responded to the email, informing her that it could not accept the work calendar because her husband is not self-employed but is employed with a company.
5. On December 31, 2014, the Department denied the application.
6. On January 2, 2015, the Department mailed a Notice of Case Action informing the petitioner she was ineligible for Medicaid benefits for herself, her husband and her

child. The reason given for the ineligibility was it did not receive verification of income for her husband.

7. On January 11, 2015, the petitioner sent an income verification form signed by her husband's supervisor. The Department did not accept this verification of income agency form because it only listed two weeks of income for the month of November 2014. The Department needed the income for entire month of November 2014, in order to process EMA benefits that month.

8. On January 23, 2015, the representative requested a hearing to challenge the Department's action.

9. On February 15, 2015, a hand written document was provided to the Department stating the husband works 40 hours per week and earns \$500 per week. The Department did not accept the document as verification of income because it did not have a signature of the person who completed the form.

10. On February 18, 2015, the Department contacted the supervisor to verify the petitioner's husband's income, upon contacting the supervisor, the Department was told he does not have access to the payroll records. The Department was advised to contact the owner or the company's accountant.

11. On February 23, 2015, the Department received a document, signed by the husband's supervisor stating he was paid \$500 per week. The Department did not accept this verification because the supervisor had previously told the Department on February 18, 2015 that he (supervisor) does not have access to the records and all verification of income would need to be verified by the owner or accountant. The Department found this to be a discrepant.

12. On February 27, 2015, the representative attempted to reach the company's accountant but was unsuccessful. A voice message was left. She also sent the Department's processor an email stating she had spoken with the supervisor and he informed her that he signs the petitioner's checks via the accountant record.

13. The Department is willing to process benefits upon verification of the husband's income. The Department has also mailed a request for income verification to the company's accountant and is awaiting a response.

#### CONCLUSIONS OF LAW

14. 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.

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

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

17. The Fla. Admin. Code R. 65A-1.204, Rights and Responsibilities, sets forth:

(1) An individual has the right to apply for assistance, to have eligibility determined, and if found eligible, to receive benefits. The applicant for or recipient of public assistance must assume the responsibility of furnishing information, documentation and verification needed to establish eligibility...

18. The petitioner's representative acts on behalf of the petitioner for the application, including interviews. The representative assumes the same rights and responsibilities

as the applicant, including the responsibility of furnishing information, documentation and verification needed.

19. Fla. Admin. Code 65A-1.205 explains the eligibility determination process, and states in part:

(1)(a) The Department must determine an applicant's eligibility initially at application and if the applicant is determined eligible, at periodic intervals thereafter. It is the applicant's responsibility to keep appointments with the eligibility specialist and furnish information, documentation and verification needed to establish eligibility. 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 appear 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, or that a member of the assistance group must comply with Child Support Enforcement or register for employment services, 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 the interview, or 60 days from the date of application, whichever is later. In cases where the applicant must provide medical information, the return due date is 30 calendar days following the written request or the interview, or 60 days from the date of application, whichever is later. If the due date falls on a holiday or weekend, the deadline is the next working day. 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. The eligibility specialist makes the decision of whether to grant the request for extension. When the applicant provides all required information or verification, the eligibility specialist determines eligibility for the public assistance programs. If the eligibility criteria are met, benefits are authorized.

(4) If an applicant or recipient does not keep an appointment without arranging another time with the eligibility specialist; or does not sign and date the applications described in subsection (1); or does not submit required documentation or verification the Department will deny benefits as it cannot establish eligibility.

20. The Code of Federal Regulations at 7 C.F.R. § 273.2 states in part:

(c)(5) *Notice of Required Verification.* The State agency shall provide each household at the time of application for certification and recertification with a notice that informs the household of the verification requirements the household must meet as part of the application process...

(d) Household cooperation. (1) To determine eligibility, the application form must be completed and signed, the household or its authorized representative must be interviewed, and certain information on the application must be verified...

(f) Verification. Verification is the use of documentation or a contact with a third party to confirm the accuracy of statements or information. The State agency must give households at least 10 days to provide required verification...

(1) Mandatory verification. State agencies shall verify the following information prior to certification for households initially applying:

(i) Gross nonexempt income...

(2) Verification of questionable information.

(i) The State agency shall verify, prior to certification of the household, all other factors of eligibility which the State agency determines are questionable and affect the household's eligibility and benefit level...

(4) *Sources of verification—(i) Documentary evidence.* State agencies shall use documentary evidence as the primary source of verification for all items except residency and household size. These items may be verified either through readily available documentary evidence or through a collateral contact, without a requirement being imposed that documentary evidence must be the primary source of verification. Documentary evidence consists of a written confirmation of a household's circumstances. Examples of documentary evidence include wage stubs, rent receipts, and utility bills. Although documentary evidence shall be the primary source of verification, acceptable verification shall not be limited to any single type of document and may be obtained through the household or other source. Whenever documentary evidence cannot be obtained or is insufficient to make a firm determination of eligibility or benefit level, the eligibility worker may require collateral contacts or home visits. For example, documentary evidence may be considered insufficient when the household presents pay stubs which do not represent an accurate picture of the household's income (such as out-dated pay stubs) or identification papers that appear to be falsified.

(5) Responsibility of obtaining verification.

(i) The household has primary responsibility for providing documentary evidence to support statements on the application and to resolve any questionable information.

(6) Documentation. Case files must be documented to support eligibility, ineligibility, and benefit level determinations. Documentation shall be in

sufficient detail to permit a reviewer to determine the reasonableness and accuracy of the determination.

**(h)(1)(i)(C) In cases where verification is incomplete, the State agency must have provided the household with a statement of required verification and offered to assist the household in obtaining required verification and allowed the household sufficient time to provide the missing verification.** Sufficient time shall be at least 10 days from the date of the State agency's initial request for the particular verification that was missing. (emphasis added)

21. The above-cited regulation states that the responsibility for obtaining verification is primary with the applicant, however the Department is to assist the household in cases where verification is incomplete. The Department assisted the petitioner by contacting her husband's supervisor and also mailed the accountant a request for income verification and is awaiting verification of income. The petitioner/representative is to explore all means to obtain verification of income from the company's accountant or owner. The Department acknowledged it will reopen the case once appropriate verification of income is provided.

22. The petitioner has the burden of proof in this appeal. The undersigned concludes the petitioner failed to meet her burden as the petitioner still has not presented accurate or acceptable verification of her husband's income.

### **DECISION**

Based upon the foregoing Findings of Fact and Conclusions of Law, the appeal is denied and the Department's action is affirmed.

### **NOTICE OF RIGHT TO APPEAL**

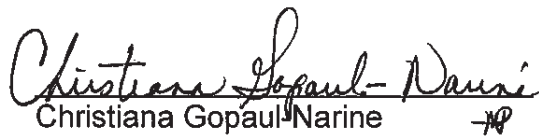
This decision is final and binding on the part of the Department. If the petitioner disagrees with this decision, the petitioner may seek a judicial review. To begin the judicial review, the petitioner must file one copy of a "Notice of Appeal" with the Agency Clerk, Office of Legal Services, Bldg. 2, Rm. 204, 1317 Winewood Blvd., Tallahassee, FL 32399-0700. The petitioner must also file another copy of the "Notice of Appeal" with

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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 31<sup>st</sup> day of March, 2015,

in Tallahassee, Florida.



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