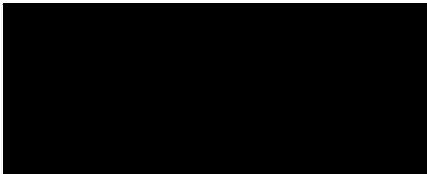


STATE OF FLORIDA  
DEPARTMENT OF CHILDREN AND FAMILIES  
OFFICE OF APPEAL HEARINGS

**FILED**

**APR 16 2015**

OFFICE OF APPEAL HEARINGS  
DEPT OF CHILDREN & FAMILIES



APPEAL NO. 15F-01312

PETITIONER,

Vs.

CASE NO. 

FLORIDA DEPT OF CHILDREN AND FAMILIES  
CIRCUIT: 17 Broward  
UNIT: 88249


RESPONDENT.

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**FINAL ORDER**

Pursuant to notice, the undersigned convened a telephonic administrative hearing in the above-referenced matter on March 19, 2015, at 1:30 p.m.

**APPEARANCES**

For the Petitioner:  Pro Se

For the Respondent: Shirley Stringer, Economic Self Sufficiency Specialist  
Supervisor, Department of Children and Families (DCF).

**STATEMENT OF ISSUE**

At issue is the Department's action to deny the petitioner's application for SSI-Related Medicaid benefits on the basis that he did not meet the disability requirements of the program.

**PRELIMINARY STATEMENT**

Present on behalf of the petitioner was Manuel Borge, Patient Advocate, Conifer Health Solutions.

The respondent submitted into evidence Respondent Exhibit 1 through 3. The petitioner submitted into evidence Petitioner Exhibit 1.

**FINDINGS OF FACT**

1. The petitioner filed an application for Medicaid with the Department on October 23, 2014. To be eligible for SSI- Related Medicaid, an individual must be disabled, blind, or aged (65 years or older). As the petitioner has not turned sixty five years and is fifty-nine years of age, then his application was forwarded to DDD (Disability Determination Department) for disability consideration.

2. The petitioner applied for disability benefits through the Social Security Administration on November 21, 2014. This application was denied by Social Security on December 19, 2014 with an N-35 code. N- 35 means "Lack of duration." The petitioner filed an appeal with Social Security on January 8, 2015. As of the date of this hearing, the petitioner's Social Security (SSA) appeal remains pending. DDD adopted the Social Security Administration decision for the petitioner's application on December 19, 2014, also with an N-35 code. The Department denied the petitioner's application for Medicaid benefits on December 23, 2014.

3. The petitioner indicated that maybe his ex-girl friend filed the application for SSA for him. He indicated that he has no contact with his ex-girl friend and has no

money to have a doctor look at him at this time to get a recent medical evaluation. He did not allege a new condition since the SSA decision.

#### CONCLUSIONS OF LAW

4. 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 § 409.285, Fla. Stat.

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

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

7. Federal Regulations at 42 C.F.R. § 435.541 states in part:

(a) *Determinations made by SSA.* The following rules and those under paragraph (b) of this section apply where an individual has applied for Medicaid on the basis of disability... (2) The agency may not make an independent determination of disability if SSA has made a disability determination within the time limits set forth in §435.911 on the same issue presented in the Medicaid application. A determination of eligibility for SSI payments based on disability that is made by SSA automatically confers Medicaid eligibility... (b)(i) An SSA disability determination is binding on an agency until the determination is changed by SSA... (2) The agency must refer to SSA all applicants who allege new information or evidence affecting previous SSA determinations of ineligibility based upon disability for reconsideration or reopening of the determination (c) *Determination made by the Medicaid agency.* The agency must make a determination of disability in accordance with the requirements of this section if any of the following circumstances exist... (4) The individual applies for Medicaid as a non-cash recipient, whether or not the State has a section 1634 agreement with SSA, and... (i) Alleges a disability condition different from, or in addition to, that considered by SSA in making its determination...

8. As shown in the Findings of Fact, the Department denied the petitioner's application for SSI-Related Medicaid benefit on the basis he did not meet the disability requirements of the program. DDD adopted the Social Security Administration decision. The petitioner did not allege a new condition not previously considered by the Social Security Administration.

9. The petitioner was denied by the Social Security Administration and he has appealed that decision. As noted in the above cited Regulation, "[a]n SSA disability determination is binding on an agency until the determination is changed by SSA....The agency must refer to SSA all applicants who allege new information or evidence affecting previous SSA determinations." Thus, the petitioner must continue his appeal with the Social Security Administration as their decision is binding on the Department and cannot be overturned by this hearing officer.

#### **DECISION**

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

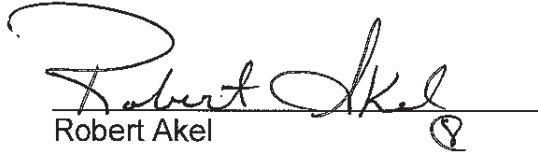
#### **NOTICE OF RIGHT TO APPEAL**

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 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 16<sup>th</sup> day of April, 2015,

in Tallahassee, Florida.



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