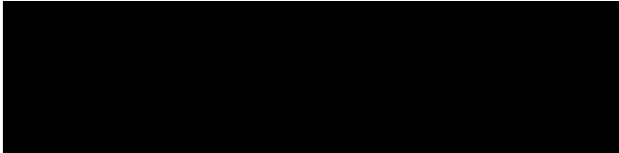


STATE OF FLORIDA
DEPARTMENT OF CHILDREN AND FAMILIES
OFFICE OF APPEAL HEARINGS

FILED

APR 28 2015

OFFICE OF APPEAL HEARINGS
DEPT OF CHILDREN & FAMILIES



APPEAL NO. 15F-01333

PETITIONER,

Vs.

CASE NO.



FLORIDA DEPT OF CHILDREN AND FAMILIES
CIRCUIT: 12 Sarasota
UNIT: 88326

RESPONDENT.

_____ /

FINAL ORDER

The undersigned convened a telephonic administrative hearing in the above-referenced matter on April 14, 2015 at 10:01 a.m. All parties appeared in different locations during the telephonic hearing.

APPEARANCES

For Petitioner: Jaisy Trujillo, Disability Specialist

For Respondent: Anjali Pant, Senior Human Service Program Specialist

STATEMENT OF ISSUE

At issue is the respondent's denial of petitioner's request for Retroactive SSI-Related Medicaid benefits for the months of July 2012; October 2012; and January 2013.

PRELIMINARY STATEMENT

Petitioner was not present, but was represented by Jaisy Trujillo with Adreima, Inc. Petitioner submitted seven exhibits, which were accepted into evidence and marked as Petitioner's Exhibit "1"- "7".

Respondent was represented by Anjali Pant with the Department of Children and Families (hereafter "DCF", "Respondent" or "Agency). Respondent submitted eight exhibits, which were accepted into evidence and marked as Respondent's Exhibit "1"- "8".

The undersigned left the record open until April 20, 2015 to allow the respondent to provide additional documentation. On April 16, 2015, the respondent submitted additional documentation that was entered into evidence and marked as Respondent's Exhibits "9"- "12". The record closed on April 20, 2015.

FINDINGS OF FACT

1. On July 26, 2012, the petitioner applied for SSI-Related Medicaid benefits with the respondent. On August 1, 2012, the respondent denied petitioner's Medicaid application as she did meet the eligibility requirements to receive SSI-Related Medicaid benefits.
2. On August 2, 2012, the respondent mailed petitioner a Notice of Case Action that indicated her Medicaid application dated July 27, 2012 had been denied as of August 1, 2012 as "no household members are eligible for this program" (Respondent's Exhibit 11).

3. On October 31, 2012, the petitioner applied for Supplemental Security Income (SSI) with the Social Security Administration (SSA). At a later date, she had a hearing where an Adjudicated Law Judge deemed her disabled effective February 2014.

4. Petitioner is requesting Retroactive SSI-Related Medicaid benefits for the months of July 2012; October 2012; and January 2013 because she believed she was eligible for SSI-Related Medicaid benefits effective October 2012. Petitioner asserted the reason the judge did not approve petitioner SSI Cash benefits effective October 2012 was because the amount of the SSI Cash benefits she would have received would have been over the \$2,000 asset limit.

5. On June 26, 2014, the petitioner again applied for Retroactive SSI-Related Medicaid benefits with the respondent. Petitioner was receiving SSI at the time of the June 2014 application.

6. On February 10, 2015, the respondent requested verification from the Division of Disability Determination (DDD) regarding the petitioner's eligibility for Retroactive SSI-Related Medicaid benefits.

7. On February 10, 2015, the respondent received a response from DDD that indicated "partial approval on February 28, 2014 with review date of March 1, 2017. Retro possible back to February 1, 2014" (Respondent's Exhibit 7).

CONCLUSIONS OF LAW

8. 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 § 409.285, Fla. Stat.

9. This proceeding is a de novo proceeding pursuant to Florida Administrative Code § 65-2.056.

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

11. The standard of proof needed to be met in an administrative hearing is a preponderance of the evidence. The preponderance of the evidence standard requires proof by "the greater weight of the evidence," (Black's Law Dictionary at 1201, 7th Ed., 1999), or evidence that "more likely than not" tends to prove a certain proposition. See Gross v. Lyons, 763 So. 2d 276, 289, n.1 (Fla. 2000).

12. The Fla. Admin. Code R. 65A-1.701, Definitions, defines the eligibility criteria for SSI-Related Medicaid and states:

SSI-related Medicaid provides medical assistance to eligible individuals who are aged, blind or disabled in accordance with Titles XVI and XIX of the Social Security Act and Chapter 409, F.S.

13. Pursuant to the above authority, petitioner is only eligible for the SSI-Related Medicaid program if she is determined to be disabled. SSA determined petitioner to be disabled effective February 2014.

14. Fla. Admin. Code 65A-1.702 states in relevant part:

(9) Retroactive Medicaid. Retroactive Medicaid is based on an approved, denied, or pending application for ongoing Medicaid benefits.
(a) Retroactive Medicaid eligibility is effective no later than the third month prior to the month of application for ongoing Medicaid if the individual would have been eligible for Medicaid at the time of application for Medicaid covered services. A request for retroactive Medicaid can be made for a deceased individual by a designated representative or caretaker relative filing an application for Medicaid assistance. The individual or his or her representative has up to 12 months after the date of application for ongoing Medicaid to request retroactive Medicaid eligibility

15. The Department's Program Policy Manual, 165-22, at section 0640.0509

Retroactive Medicaid (MSSI) states, in part:

Medicaid is available for any one or more of the three calendar months preceding the application month, provided:

1. at least one member of the SFU has received Medicaid reimbursable services during the retroactive period, and
2. the individual meets all factors of eligibility during the month(s) he requests retroactive Medicaid.

The applicant may request retroactive Medicaid at any time, as long as the coverage period is for any one of three months prior to any Medicaid or SSI application.

This retroactive coverage is not affected by:

1. the application's disposition (approval or denial);
2. whether or not the individual was alive at the time of the application; or
3. when the request for assistance or request to add was made. . .

16. The Department's Program Policy Manual, 165-22, at section 2040.0812.02

Requirements for Retroactive Medicaid (MSSI) states, in part:

The following requirements must be met in order to be eligible for retroactive Medicaid (RMAO):

1. The individual must file an application for ongoing assistance. A request for RMAO can be made for a deceased individual. . .
3. The eligibility specialist will determine eligibility for each of the retroactive month(s) using eligibility criteria for any Medicaid coverage group, regardless of the program for which the individual applied.
4. A determination of eligibility must be made for each of the month(s) in the RMAO period. . .

For disability cases, the eligibility specialist should call DDD for a Title II diary date and onset date prior to completing the disability forms. If the retroactive Medicaid date is covered by the Title II onset date, then DDD will adopt the decision and completion of the disability forms will not be necessary. . .

17. Pursuant to the above authorities, to be eligible for Retroactive SSI-Related Medicaid benefits, an application must be filed in one of the three months preceding that application. Petitioner filed three applications for Retroactive SSI-Related Medicaid benefits: on July 26, 2012; on October 31, 2012; and on June 26, 2014. Petitioner seeks Retroactive Medicaid benefits for July 2012; October 2012; and January 2013.

18. The evidence indicates the petitioner filed only one application that would include a Retroactive Medicaid month. The month of July 2012 would be considered a Retroactive Medicaid month for the SSI application dated October 31, 2012. Petitioner is not eligible for Retroactive Medicaid for the months of October 2012 and January 2013 as these months do not have applications filed during their Retroactive coverage period.

19. Furthermore, in order for petitioner to be eligible for Retroactive Medicaid benefits, she must also meet all eligibility requirements for SSI-Related Medicaid benefits. Respondent contacted DDD who determined February 2014 as petitioner's first month of eligibility for Retroactive SSI-Related Medicaid benefits. Therefore, petitioner is not eligible for the Retroactive SSI-Related Medicaid month for July 2012, as she does not meet the disability requirement.

20. In careful review of the cited authorities and evidence, the undersigned concludes the petitioner did not meet the burden of proof in establishing that the respondent incorrectly denied her request for Retroactive SSI-Related Medicaid benefits for the months of July 2012; October 2012; and January 2013.

DECISION

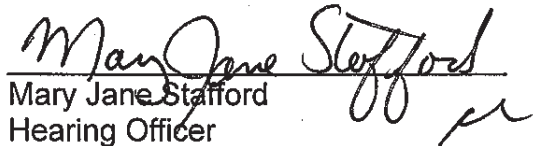
Based upon the foregoing Findings of Fact and Conclusions of Law, the appeal is DENIED.

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 28th day of April, 2015,

in Tallahassee, Florida.



Mary Jane Stafford
Hearing Officer
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