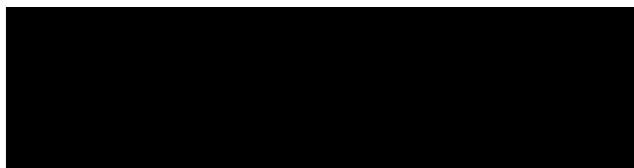


STATE OF FLORIDA  
DEPARTMENT OF CHILDREN AND FAMILIES  
OFFICE OF APPEAL HEARINGS

FILED

APR 28 2015

OFFICE OF APPEAL HEARING  
DEPT OF CHILDREN & FAMILIES



APPEAL NO. 15F-01346

PETITIONER,

Vs.

CASE NO.



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

RESPONDENT.

FINAL ORDER

The undersigned convened a telephonic administrative hearing in the above-referenced matter on April 14, 2015 at 9:01 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 action to deny petitioner's SSI-Related Medicaid benefits due to not receiving the information requested to determine eligibility.

PRELIMINARY STATEMENT

Petitioner was not present, but was represented by Jaisy Trujillo with Adreima, Inc. Petitioner submitted nine exhibits, which were accepted into evidence and marked as Petitioner's Exhibit "1"- "9".

Respondent was represented by Anjali Pant with the Department of Children and Families (hereafter "DCF", "Respondent" or "Agency). Respondent submitted six exhibits, which were accepted into evidence and marked as Respondent's Exhibit "1"- "6".

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 Exhibit "7". On April 16, 2015, the petitioner submitted additional evidence that was entered into evidence and marked as Petitioner's Exhibit "10". The record closed on April 20, 2015.

#### **FINDINGS OF FACT**

1. On May 14, 2014, petitioner contacted the Social Security Administration (SSA) by phone. During the phonecall, SSA indicated to petitioner that an informal decision was made determining her ineligible for Supplemental Security Income (SSI). The reasons petitioner is ineligible for SSI is (1) she did not want to file a claim for SSI; and (2) her and her husband's monthly income totaled \$1,874.00, which is too high for SSI payments in her State. This informal decision did not determine petitioner's eligibility for Social Security Disability Insurance (SSDI) income or Medicare.
2. On August 29, 2014, petitioner submitted an application for Retroactive and ongoing SSI-Related Medicaid benefits. The application listed petitioner requesting the Retroactive Medicaid for March 2014 as she completed an application on June 23, 2014.

3. On September 8, 2014, respondent mailed petitioner a Notice of Case Action that requested petitioner to submit the following documentation by September 18, 2014:

"Proof you have applied {sic} for social security- [REDACTED]. Complete the financial release- [REDACTED]. Complete/return the authorization to disclose form- [REDACTED]"

4. On September 8, 2014, petitioner submitted the following documentation:

A signed financial release and a signed authorization to disclose forms.

5. On September 11, 2014, the Division of Disability Determination (DDD) deemed petitioner disability effective May 2014.

6. On September 11, 2014, the respondent contacted petitioner by phone where petitioner explained to the respondent (1) she is not eligible for SSI due to income; and (2) she is not eligible for SSDI income as she has no work history. Respondent explained to the petitioner that she is required to submit verification that indicated she had applied for both SSI and SSDI.

7. On October 2, 2014, respondent mailed petitioner a Notice of Case Action that indicated petitioner's Medically Needy application dated August 29, 2014 was denied as, "Account transfer to federally facilitated marketplace. Did not apply for other benefits for which you may have been eligible. We did not receive all information requested to determine eligibility" (Respondent Exhibit 3).

8. Respondent utilized the State of Florida SSA State On-Line Query to verify information from the SSA. The information on the Query screens came directly from SSA and the respondent cannot update or alter the screen. The Query screen did not indicate that petitioner had applied for either SSI or SSDI (Respondent's Exhibit 4).

9. At the hearing, petitioner provided a email dated September 18, 2014 indicating petitioner cannot apply for SSI because "based on the information you provided, your prior application was denied within the last 60 days" (Petitioner's Exhibit 4).
10. Respondent asserted the email is not verification of petitioner's application for SSI as it does not include the name of the individual who applied for SSI.
11. Petitioner believed that a representative from DCF should have contacted her by phone to inform her that she had not provided the proof of her application for both SSI and SSDI.
12. Petitioner requires the SSI-Related Medicaid benefits as she has a life threatening illness and has been receiving treatment for that illness since March 2014.

#### **CONCLUSIONS OF LAW**

13. 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.
14. This proceeding is a de novo proceeding pursuant to Florida Administrative Code § 65-2.056.
15. In accordance with Fla. Admin. Code § 65-2.060 (1), the burden of proof was assigned to the petitioner.
16. 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, 7<sup>th</sup> 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).

17. 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.

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

19. The Fla. Admin. Code R. 65A-1.205, Eligibility Determination Process states, in part:

(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 appears necessary. . .

20. The Department's Program Policy Manual, 165-22, at section 0640.0401 states, in part:

The verification/information due date is 10 calendar days after the date of the interview or if there is no interview requirement, 10 days after the date the pending notice is generated. In cases where medical information is required, the return due date is 30 calendar days from date of request. If the due date falls on a holiday or weekend, the deadline for the requested information is the next business day. At the individual's request, extend the due date. Leave the case pending until the 30th day after the date of

application to allow the household a chance to provide verifications. Assist applicants with getting missing verifications when needed.

1. If the applicant completes the interview, provides all verifications, and meets all eligibility factors, approve the application by the 30th day for Medicaid. If the 30th day falls on a weekend or holiday, approve the application on the business day before the 30th day.

2. If the household does not return the verifications by the 30th day after the date of application, deny the application on the 30th day. If the 30th day falls on a weekend or holiday, deny the application on the next business day after the 30th day.

3. If the household returns the verifications after the 30th day but by the 60th day, approve the application as soon as possible following receipt of the verifications as long as disposal occurs by the 60th day. Do not require a new application. . .

21. Pursuant to the above authorities, the respondent correctly pended petitioner for verification that was required to determine her eligibility for SSI-Related Medicaid benefits. Furthermore, petitioner has sixty days from the date of application to provide the verification needed to determine her eligibility for Medicaid benefits.

22. The Fla. Admin. Code R. 65A-1.702, Special Provisions states, in part:

(5) Requirement to File for Other Benefits.

(a) Documentation that the individual has applied for any annuity, pension, retirement, disability or Medicare benefits to which they may be entitled must be received by the department prior to approval for Medicaid benefits.

(b) After the department notifies an individual that they must apply for the other benefits and if they fail to do so in the absence of a showing of good cause, the individual is not eligible for Medicaid benefits.

23. The Department's Program Policy Manual, 165-22, at section 1440.1400

Requirements to File for Other Benefits (MSSI) states, in part:

Individuals must apply for and diligently pursue to conclusion an application for all other benefits for which they may be eligible as a condition of eligibility. Need cannot be established nor eligibility

determined upon failure to do so. Benefits that must be applied for include, but are not limited to:

1. Pensions from local, state, or federal government,
2. Retirement benefits,
3. Disability,
4. Social Security benefits,
5. Veterans' benefits,
6. UC benefits,
7. Military benefits,
8. Railroad retirement benefits,
9. Workers' Compensation benefits,
10. Health and accident insurance payments, and
11. Medicare Part A, Part B and Part D.

Individuals applying for Medicaid on the basis of age (65 or older) or disability must apply for Medicare if the state will pay the Medicare premium, deductible or co-insurance.

Individuals applying for SSI-Related Medicaid, HCDA, TCA, or Family-Related Medicaid are not required to apply for SSI as a condition of eligibility. . .

24. Pursuant to the above authorities, petitioner is required to file for "Other Benefits" in order to be eligible for SSI-Related Medicaid benefits. Petitioner does not have to provide proof of her application for SSI if she is applying for SSI-Related Medicaid benefits. However, she is required to provide proof of her application for SSDI benefits to be eligible for SSI-Related Medicaid benefits. There is insufficient evidence to indicate petitioner had provided proof of her application for SSDI benefits within sixty days of the August 29, 2014 application.

25. 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 application for SSI-Related Medicaid benefits for the months of March 2014 and ongoing.

26. Petitioner is encouraged to submit proof of her SSDI application to the respondent to determine her eligibility for Retroactive SSI-Related Medicaid benefits. She is also encourage to submit an application to determine her eligibility for ongoing for SSI-Related Medicaid benefits.

**DECISION**

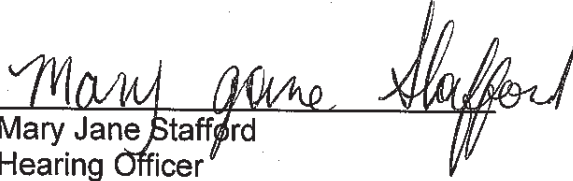
Based upon the foregoing Findings of Fact and Conclusions of Law, the appeal is DENIED.

**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 28<sup>th</sup> day of April, 2015,

in Tallahassee, Florida.

  
Mary Jane Stafford  
Hearing Officer  
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Tallahassee, FL 32399-0700  
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Copies Furnished To: [REDACTED] Petitioner  
Office of Economic Self Sufficiency