

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

FILED

MAR 06 2015

OFFICE OF APPEAL HEARINGS
DEPT. OF CHILDREN & FAMILIES

APPEAL NO. 15F-00292
APPEAL NO. 15F-01399

PETITIONER,

Vs.

CASE NO. [REDACTED]

FLORIDA DEPARTMENT OF
CHILDREN AND FAMILIES
CIRCUIT: 06 Pinellas
UNIT: 883CF

RESPONDENT.
_____ /

FINAL ORDER

Pursuant to notice, the undersigned convened a telephonic administrative hearing in the above-referenced matter on January 30, 2015 at 10:32 a.m.

APPEARANCES

For the Petitioner: [REDACTED]

For the Respondent: Shawnee Daniels, ES senior human services program specialist

STATEMENT OF ISSUE

The petitioner is appealing the denial of Food Assistance Program benefits for the household and Medicaid Program benefits for the petitioner.

PRELIMINARY STATEMENT

Witness for the petitioner was [REDACTED] the petitioner's husband.

The respondent presented eight exhibits which were accepted into evidence and marked as Respondent Exhibits "1" through "8" respectively. The petitioner did not present any exhibits into evidence. The record was left open the respondent to submit additional evidence. On January 30, 2015, the respondent presented one exhibit which was accepted into evidence and marked as Respondent Exhibit "9", and the record closed.

FINDINGS OF FACT

1. On December 1, 2014, the petitioner applied for Medicaid Program benefits. The petitioner is 35 years old. On the application, the petitioner reported as follows.

The household members were herself, her husband, and one child born on [REDACTED]

[REDACTED]. No one in the household is disabled. She was the child's mother, and the child was her tax dependent. She was not pregnant. She was employed by [REDACTED]

[REDACTED] and her monthly income was \$1,668.94. Her husband was not working.

He was receiving \$1,880 a month in Social Security benefits and \$448 a month in pension funds. No shelter expenses or utilities were indicated on the application.

2. On December 1, 2014, the petitioner applied for Food Assistance Program benefits for herself only, indicating she was homeless. On the application, the petitioner reported no household income, no shelter expenses or utilities, and she was not disabled.

3. The respondent reviewed the applications. On December 5, 2014, the respondent called the petitioner and spoke to the husband. The husband reported as

follows. The child was not the petitioner's child, the child was no longer in the household, and the child went to live with his mother. The petitioner is not pregnant. She has not applied for disability with Social Security, and she does not have any new conditions to report.

4. It was determined that as the petitioner did not have a dependent child living in the home that she was not eligible for Family-Related Medicaid Program benefits. It was determined that as the petitioner was not aged, blind or determined disabled by Social Security, she was not eligible for SSI-related Medicaid Program benefits. The respondent asserted that the application for Medicaid Program benefits was denied. No Notice of Case Action was submitted into evidence.

5. As the petitioner reported her employment with the [REDACTED] and a monthly income of \$1,668.94 on her application, proof of income would be required to determine eligibility. On December 8, 2014, a notice was sent to the petitioner requested proof of the household last four weeks of income. The petitioner was to use the Verification of Employment/Loss of Income form, or she could send in her last four weeks of paystubs. The verification was due within 10 days. The verification was not received. On December 18, 2014, a second notice was sent requesting proof of household last four weeks of income.

6. On December 29, 2014, another interview was held with the petitioner's husband. He reported as follows. The application for Food Assistance Program benefit was for himself and the petitioner. His income was \$1,714 a month in Social Security, and \$488 a month from a pension. The rent was \$635 and they pay electric heating and cooling. No one in the household is pregnant.

7. As of January 5, 2015, the requested verification was not received. The petitioner did not notify the respondent she was unable to obtain proof of loss of income. A Notice of Case Action was sent to the petitioner informing her that the Food Assistance Program benefits were denied.

8. The petitioner and her husband asserted as follows. The petitioner was working for the [REDACTED]. She resigned on October 16, 2014 due to emergency surgery and she has been out of work since then. She took the Loss of Income form to the [REDACTED] and they would not fill it out. She was taking medication when she completed the applications. She only wants to apply for Food Assistance Program benefits for herself. In January 2015, she found out she was pregnant. She applied for disability with Social Security, she was denied, and they hired a lawyer for the appeal.

9. The respondent asserted that if the petitioner is pregnant she could reapply for Family-Related Medicaid Program benefits.

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 § 409.285, Fla. Stat. 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. The Code of Federal Regulations at 7 C.F.R. §273.1, Household concept, sets forth:

(a) General household definition. A household is composed of one of the following individuals or groups of individuals, unless otherwise specified in paragraph (b) of this section...

(b) Special household requirements—(1) Required household combinations. The following individuals who live with others must be considered as customarily purchasing food and preparing meals with the others, even if they do not do so, and thus must be included in the same household, unless otherwise specified.

(i) Spouses;

14. As the petitioner is married and living with her husband, both the petitioner and her husband must be in the filing unit for Food Assistance Program benefits.

15. Application processing and verification requirements are set forth in the Code of Federal Regulations at 7 C.F.R. § 273.2 and state in relevant 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. The notice shall also inform the household of the State agency's responsibility to assist the household in obtaining required verification provided the household is cooperating with the State agency as specified in (d)(1) of this section. The notice shall be written in clear and simple language and shall meet the bilingual requirements designated in Sec. 272.4(b) of this chapter. At a minimum, the notice shall contain examples of the types of documents the household should provide and explain the period of time the documents should cover.

(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. Paragraph (i)(4) of this section contains verification procedures for expedited service cases.

(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...
- (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...

16. The petitioner indicated on the application that she was working and had income. The petitioner and her husband both asserted that the petitioner was no longer working. Therefore, the household income came into question. The household has primary responsibility for providing documentary evidence to support statements on the application and to resolve any questionable information. The respondent sent the petitioner a notice requesting verification of the household last four weeks of income using the Verification of Employment/Loss of Income form, or she could send in her last four weeks of paystubs. Without verification of the last four weeks of income or verification that the reported employment and income ended, eligibility cannot be determined. The petitioner did not provide verification of her loss of income within the allotted time. It is concluded that the denial of Food Assistance Program benefits was within the regulations of the Program.

17. The Family-Related Medicaid rules are set forth in the Fla. Admin. Code R. 65A-1.705, Family-Related Medicaid General Eligibility Criteria. The rules set forth that to be eligible for Family-Related Medicaid a dependent minor child must be living in the home.

18. The child that was listed on the application was not the petitioner's child and that child left the home to live with his mother. During the application process, the petitioner did not report she was pregnant, nor did she have a dependent minor child living with her. The petitioner was not eligible for Family-Related Medicaid Program benefits.

19. The Florida Administrative Code, Section 65A-1.710 et seq., sets forth the rules of eligibility for Elderly and Disabled Individuals Who Have Income of Less Than the Federal Poverty Level. For an individual less than 65 years of age to receive benefits, he or she must meet the disability criteria of Title XVI of the Social Security Act appearing in 20 C.F.R. § 416.905.

20. The petitioner did not indicate on either application that she was disabled. The husband reported at the interview that she has not applied for disability with Social Security. As the petitioner is not aged, blind or disabled, she was not eligible for SSI-Related Medicaid Program benefits.

21. As the petitioner was not eligible for Family-Related Medicaid Program benefits or SSI-Related Medicaid Program benefits, the respondent's action to deny Medicaid Program benefits was within the rules of the Program. The petitioner is encouraged to apply for Medicaid Program benefits for her pregnancy.

DECISION

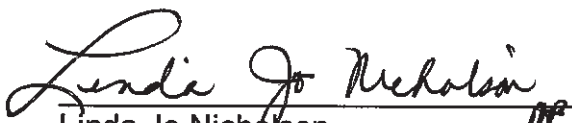
Based upon the foregoing Findings of Fact and Conclusion of Law, the appeals are denied.

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 6th day of March, 2015,

in Tallahassee, Florida.



Linda Jo Nicholson
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Copies Furnished To: [REDACTED] Petitioner
Office of Economic Self Sufficiency