

FILED

APR 27 2015

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

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DEPT. OF CHILDREN & FAMILIES



APPEAL NO. 15F-02120
15F-02121
15F-02157

PETITIONER,

Vs.

CASE NO. 


FLORIDA DEPARTMENT OF
CHILDREN AND FAMILIES
CIRCUIT: 11 Dade
UNIT: 88691

RESPONDENT.

FINAL ORDER

Pursuant to notice, the undersigned convened an administrative hearing in the above-referenced matter on April 3, 2015 at 3:11 p.m. All parties appeared telephonically from different locations.

APPEARANCES

For the petitioner: 

For the respondent: Bertha Diaz, ACCESS Supervisor.

STATEMENT OF ISSUE

At issue is the Department's action to deny the petitioner's application for Food Assistance Program (FAP) benefit to add children, and his initial application for Temporary Cash Assistance (TCA) and Medicaid benefits for himself and the children.

PRELIMINARY STATEMENT

On March 11, 2015, the Department sent a Notice of Case Action (NOCA) to the petitioner informing him that his application was denied. The petitioner requested an appeal prior to the issuance of this NOCA. The petitioner timely appealed on March 2, 2015.

The petitioner presented one exhibit, which was accepted into evidence and marked as Petitioner's Exhibit "1". The Department presented 28 pages of exhibits, which were accepted into evidence and marked as Respondent's Composite Exhibit "1". The record was left open until close of business April 9, 2015 for the Department to provide additional information. The Department submitted an additional 25 pages of exhibits, which were accepted into evidence and marked as Respondent's Composite Exhibit "2". The record was closed on April 9, 2015.

FINDINGS OF FACT

1. On February 9, 2015, the petitioner applied for FAP, TCA and Medicaid benefits for himself and two children. He had FAP benefits previously for himself and this was a recertification application that included himself and his alleged children ages five and ten.

2. The Department sent a pending notice to the petitioner on March 16, 2015 with a due date of March 26, 2015. The Department also sent a NOCA on March 24, 2015 requesting information that was due on April 3, 2015. The Department requested that the petitioner send verification of birth certificates, Social Security cards, immunization records and school records for the children that he reported on the

application. This information was required for the Department to verify identity, citizenship, relationship, immunization and living arrangements for the children

3. The petitioner stated that he has a current legal case open in the county court for paternity and custody of the children. He was able to provide Social Security numbers to the undersigned and Department the day of the hearing. The Department was unable to verify that the numbers belong to those children.

4. The Department approved the petitioner's FAP benefits based on a household size of one, as the information for the children was not provided. The TCA and Medicaid benefits were denied as the petitioner does meet the technical requirements as the children's information was not returned and they were not added to his case.

CONCLUSIONS OF LAW

5. 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.

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

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

(1) The burden of proof, except where otherwise required by statutes, is on the party asserting the affirmative of an issue. The burden is upon the Department when the Department takes action which would reduce or terminate the benefits or payments being received by the recipient.

The party having the burden shall establish his/her position, by a preponderance of evidence, to the satisfaction of the hearing officer.

IN REGARDS TO THE FAP ISSUE

8. The Code of Federal Regulations appearing in 7 C.F.R. § 273.2, Office operations and application processing, state in part:

(v) *Social security numbers.* The State agency shall verify the social security number(s) (SSN) reported by the household by submitting them to the Social Security Administration (SSA) for verification according to procedures established by SSA. The State agency shall not delay the certification for or issuance of benefits to an otherwise eligible household solely to verify the SSN of a household member.

(vi) *Residency.* The residency requirements of §273.3 shall be verified except in unusual cases (such as homeless households, some migrant farmworker households, or households newly arrived in a project area) where verification of residency cannot reasonably be accomplished.

(vii) *Identity.* The identity of the person making application shall be verified. Where an authorized representative applies on behalf of a household, the identity of both the authorized representative and the head of household shall be verified. Identity may be verified through readily available documentary evidence, or if this is unavailable, through a collateral contact. Examples of acceptable documentary evidence which the applicant may provide include, but are not limited to, a driver's license, a work or school ID, an ID for health benefits or for another assistance or social services program, a voter registration card, wage stubs, or a birth certificate. Any documents which reasonably establish the applicant's identity must be accepted, and no requirement for a specific type of document, such as a birth certificate, may be imposed...

(x) *Household composition.* State agencies shall verify factors affecting the composition of a household, if questionable. Individuals who claim to be a separate household from those with whom they reside shall be responsible for proving that they are a separate household to the satisfaction of the State agency.

9. The above cited authorities states the Department must verify the assistance group member's Social Security numbers, residency, identity and household composition if questionable. The petitioner did return the above information in regards to his alleged children, therefore, the undersigned concludes that the Department was

correct in their action to deny FAP benefits to those additional members of the assistance group.

IN REGARDS TO THE TCA ISSUE

10. Fla. Admin. Code R. 65A-4.207 Age, states:

(1) To be included in a Temporary Cash Assistance (TCA) benefit, a child must be a minor child as in Section 414.0252(8), F.S. An unmarried child means the child has never been married or if married, the marriage was annulled.

(a) A secondary school is considered grades 6 through 12 as in Section 1003.413(1), F.S.

(b) Full-time is defined as the number of hours considered to be full-time by the educational institution the child is attending.

(2) A child is eligible to receive TCA on the factor of age through the month of the child's eighteenth birthday, or through the month of the child's nineteenth birthday, if attending secondary school or an equivalent level of career training on a full-time basis. If the child's birthday is on the first day of the month, eligibility ceases effective the minor child's 18th birthday, or 19th birthday, if attending secondary school or an equivalent level of career training on a full-time basis.

11. Fla. Admin. Code R. 65A-4.208 Need, states:

(1) The Department determines financial eligibility by comparing the income, assets and needs of standard filing unit members to the eligibility/payment standard applicable to the assistance group as in Section 414.095(12), F.S. Assistance group members are always members of the standard filing unit and their income, assets and needs are counted. The income and assets of standard filing unit members who are not part of the assistance group are counted, but their needs are not.

(2) For Temporary Cash Assistance (TCA), the following individuals are included in the assistance group:

(a) The minor child(ren) for whom assistance is requested, provided they meet all non-financial state and federal Temporary Assistance to Needy Families TCA eligibility criteria pursuant to Section 103 of Public Law 104-193, Part A, Section 401(a)(1) and Section 408(a)(1)(A)(i), 45 C.F.R. § 233.10, 45 C.F.R. § 233.90(c)(1)(v)(A), 45 C.F.R § 233.107, and Sections 414.095(2) and (14), F.S. The term "in a setting approved by the Department" set forth in Section 414.095(2)(a)4., F.S., means a Department-approved adult-supervised supportive living arrangement for an unwed minor child and their dependent child(ren) pursuant to 45 C.F.R.

§ 233.107 and Section 414.095(14), F.S.

(b) The parent(s), provided the parent meets all non-financial TCA eligibility criteria.

(c) All minor siblings (including half-brothers and half-sisters) living with the child for whom assistance is requested or if not living with such child, all minor siblings who are determined to be temporarily absent from the home by the Department, provided the siblings meet all TCA non-financial eligibility criteria.

(3) The following individuals are included in the standard filing unit. However, their needs are not counted, and they are not included in the assistance group.

(a) The parent(s) who is not eligible to be included in the assistance group due to non-financial reasons, but who is living in the home with the child, or if not living with such child, is deemed to be temporarily absent by the Department.

The individual must be considered a resident of Florida. Individuals who are in Florida temporarily may be considered residents of the state on a case-by-case basis, if they indicate an intent to reside in Florida and can verify that they are residing in Florida.

12. The Department pended for the verification of the ages and needs of his alleged children. The petitioner is not eligible for TCA benefits without his children. The petitioner failed to provide the requested information, therefore, the undersigned concludes that the Department correctly denied his application for TCA benefits.

IN REGARDS TO THE MEDICAID ISSUE

18. Fla. Admin. Code R. 65A-1.705 Family Related Medicaid General Eligibility Criteria, states in part:

(1) Technical eligibility criteria of living in the home of a specified relative, age, residence, citizenship and deprivation apply to coverage groups as follows.

(2) Coverage groups must meet the deprivation criterion only to the extent that children and parents or caretaker relatives meet payment standard income criteria [Refer to subsection 65A-1.716(2), F.A.C.].

(3) The child must be living with a specified relative as defined in paragraph 65A-1.705(7)(a), F.A.C., unless specified that the child may be living with a non-relative.

(4) Age criteria are as specified in Rule 65A-1.703, F.A.C.

(5) The individual must be a resident of Florida as provided by s. 1902(a) and (b) of the Social Security Act (2007), incorporated by reference. Individuals who are in Florida temporarily may be considered residents of the state on a case-by-case basis, if they indicate an intent to reside in Florida and can verify that they are residing in Florida.

(6) The individual must be a citizen of the United States or a qualified alien as defined in 8 USC s. 1641(b) (2000 Ed., Sup. V), incorporated by reference.

24. The Department is required to verify citizenship, age and relationship/living arrangement in order to determine Medicaid eligibility for the petitioner and his alleged children. As the petitioner failed to return the verification requested on his children to the Department, the undersigned concludes that his application for Medicaid was denied correctly.

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

(1)(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.... 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...

(5) The Department can substantiate, verify or document information provided by the applicant/recipient as part of each determination of eligibility. For any program, when there is a question about the validity of the information provided, the Department will ask for additional documentation or verification as required. The term verification is used generically to represent this process.

26. The above-cited authority states the process the Department is to follow when determining a household's eligibility for benefits. In this instant case, the petitioner was pended and given the opportunity to provide verification of children's identity, Social Security numbers, living arrangement and relationship verification, yet failed to do so. Therefore, the Department was correct in their action to deny the petitioner's application as the information needed to determine eligibility was not provided.

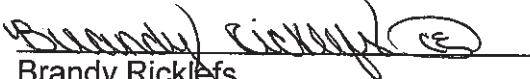
DECISION

Based upon the foregoing Findings of Fact and Conclusions of Law, the appeals are denied and the Department's actions are 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 27 day of April, 2015,
in Tallahassee, Florida.


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