

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

FILED

APR 17 2015

OFFICE OF APPEAL HEARINGS
DEPT. OF CHILDREN & FAMILIES

APPEAL NO. 15F-1092


PETITIONER,

Vs.

CASE NO. 


FLORIDA DEPT OF CHILDREN AND FAMILIES
CIRCUIT: 11 DADE
UNIT: 88076

RESPONDENT.

FINAL ORDER

Pursuant to notice, the undersigned convened a telephonic administrative hearing in the above-referenced matter on at March 13th, 2015 at 10:05 a.m.

APPEARANCES

For the Petitioner:  pro se.

For the Respondent: Peter Alabi, Supervisor for Economic Self-Sufficiency Program (ESS).

STATEMENT OF ISSUE

The petitioner is appealing the respondent's action to deny his October 28th, 2014 application for Medicaid. The petitioner carries the burden of proof in this appeal.

PRELIMINARY STATEMENT

Petitioner's Composite Exhibit 1 was marked into evidence.

Respondent's Exhibits 1 through 7 were marked into evidence.

By way of a Notice of Case Action dated March 3rd, 2015, the respondent informed the petitioner that his application for Medicaid dated February 24th, 2015 was denied effective February 2015.

A Notice of Case Action dated October 30th, 2014, is part of the record but is missing the page where Medicaid denial is addressed. On January 2nd, 2015, the petitioner requested an appeal to challenge the respondent's denial of Medicaid benefits. Absent evidence to the contrary, the appeal is considered timely filed.

FINDINGS OF FACT

1. The petitioner applied for Medicaid benefits on October 28th, 2014. (See Respondent's Exhibit 1.) As part of the application process, the respondent is required to explore and verify all technical factors of eligibility.

2. The petitioner is a 45 year-old male who resides with an unrelated friend, and has no minor children in his parental responsibility.

3. The petitioner alleges that he suffers from asthma as well as high blood pressure. The petitioner also alleges that he has swollen testicles, and that he had a hernia in his umbilical area.

4. The respondent submitted into evidence as Respondent's Exhibit 5 a screen print from the Department's FLORIDA system (the system that collects information and data used in the process of determining an individual's eligibility for ESS-related benefits). The screen print, "AIDD", indicates that a disability packet was completed and forwarded to the Division of Disability Determinations on March 2nd, 2015. The screen

print also indicates that on the same date, the petitioner's application for disability-related Medicaid was denied with reason code N35, which signifies "Nonpay. Impairment is severe at time of adjudication but not expected to last 12 months, no visual impairment."

5. There was no evidence of any action on the petitioner's application of October 28th, 2014 until March 2nd, 2015, which is described above. There was also no representative from DDD present at the hearing to attest to the above-mentioned denial.

6. On February 20th, 2015, the respondent received via the Department's Data Exchange System (the system that collects data from various sources, to be used in determining an individual's eligibility for benefits) an alert from the Social Security Administration (SSA) State Data Exchange. The alert indicated that the petitioner had applied for disability benefits on December 1st, 2014, and that disability benefits were denied by SSA on February 20th, 2015 with reason code N35. The petitioner acknowledged having applied for disability benefits with the SSA. The petitioner has taken no action to appeal SSA's decision.

7. The respondent's position is that it is bound by SSA's decision for a period of 12 months.

PRINCIPLES 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 §

409.285, Fla. Stat. This order is the final administrative decision of the Department of Children and Families under Fla. Stat. § 409.285.

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

10. The Code of Federal Regulations at 42 C.F.R. § 435.541 Determinations of disability 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) Effect of SSA determinations. **(1)(i) An SSA disability determination is binding on an agency until the determination is changed by SSA...** [Emphasis added] (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...

11. The Code of Federal Regulations at 20 C.F.R. § 404.909, addresses filing an appeal with the Social Security Administration, and states, in pertinent part:

(a) We shall reconsider an initial determination if you or any other party to the reconsideration files a written request—

(1) Within 60 days after the date you receive notice of the initial determination (or within the extended time period if we extend the time as provided in paragraph (b) of this section);

ANALYSIS

12. The above federal regulation indicates that the Department 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 issues presented in the Medicaid application. The regulation also states that the Department must make a determination of disability if the individual applies for Medicaid as a non-cash recipient, whether or not the State has a section 1634 agreement with SSA and alleges a disabling condition different from, or in addition to, that considered by SSA in making its determination or alleges more than 12 months after the most recent SSA determination. The Department is bound by the federal agency's decision unless there is evidence of a new disabling condition not reviewed by SSA.

13. The evidence shows that the petitioner applied for Medicaid benefits through DCF on October 28th, 2014. The evidence also shows that the petitioner applied for Medicaid benefits through SSA on December 1st, 2014. The evidence shows that SSA denied the petitioner's application for Medicaid on February 20th, 2015. According to the regulations cited above, a request to appeal an SSA decision must be made within 60 days from the date of the notification of the denial. The evidence shows that as of the date of the hearing, the petitioner has not filed an appeal with SSA to challenge its February 20th, 2015 denial.

14. The regulations cited above also state that a decision made by SSA is binding on the state agency (in this case, DCF) for 12 months, unless a new disabling condition is alleged. There was no evidence at the hearing that such was the case here; therefore, the hearing officer concludes that the respondent was correct in denying the petitioner's application for Medicaid through DCF.

DECISION

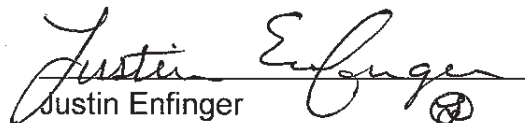
Based on the foregoing Findings of Fact and Principles of Law, this appeal is DENIED, and the respondent's action is affirmed.

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 indigence to waive those fees. The Department has no funds to assist in this review, and any financial obligations incurred will be the petitioner's responsibility.

DONE and ORDERED this 17th day of April, 2015,

in Tallahassee, Florida.



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