

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

**FILED**

Dec 17, 2015

Office of Appeal Hearings  
Dept. of Children and Families



APPEAL NO. 15F-07992

PETITIONER,

Vs.

CASE NO. 

FLORIDA DEPT OF CHILDREN AND FAMILIES  
CIRCUIT: 17 Broward  
UNIT: 88249

RESPONDENT.

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**FINAL ORDER**

Pursuant to notice, the undersigned convened a telephonic administrative hearing in the above-referenced matter on November 3, 2015, at 1:30 p.m.

**APPEARANCES**

For the Petitioner:  pro se.

For the Respondent: Mary Triplett, Economic Self Sufficiency Specialist  
Supervisor, Department of Children and Families (DCF).

**STATEMENT OF ISSUE**

At issue is the Department's action in cancelling the petitioner's SSI-Related Medicaid benefits on the basis that he did not meet the disability requirements of the program. The respondent carries the burden of proving its case by a preponderance of the evidence.

**PRELIMINARY STATEMENT**

The respondent submitted into evidence Respondent's Exhibits 1 and 2.

**FINDINGS OF FACT**

Based upon the oral and documentary evidence presented at the final hearing and on the entire proceeding, the following Findings of Fact are made:

1. The petitioner filed an application for Medicaid with the Department on August 25, 2015. To be eligible for SSI- Related Medicaid, an individual must be disabled, blind, or aged (65 years or older). The petitioner is [REDACTED] years of age. His application was forwarded to DDD (Division of Disability Determinations) for disability consideration.

2. The petitioner was approved for Medicaid benefits after a favorable DDD disability decision in March 2014. He was due for a redetermination of these benefits in July 2015. The petitioner also applied for Social Security Disability benefits in July 2014. SSA denied this application for benefits in September 2014 with an N-32 code. N-32 means "Capacity for other work." The petitioner appealed this SSA decision in March 2015 and is awaiting an appeal date.

3. On September 11, 2015, DDD adopted the SSA decision also with an N-32 code. The Department cancelled the petitioner's Medicaid benefits on September 14, 2015. The Notice mailed to the petitioner on September 14, 2015 indicated: "Your Medicaid benefits for the person listed below will end on September 30, 2015." The person "listed below" is the petitioner.

4. The petitioner filed this appeal on September 24, 2015, but indicated he was not aware that he could request continued Medicaid benefits until a hearing decision

was made. He requested on record that his Medicaid benefits continue. The respondent indicated his Medicaid benefits will be reinstated the day after this hearing and will continue until the hearing decision is made.

5. The petitioner indicated he filed for SSA and Medicaid benefits based on a condition of [REDACTED]. He indicated that within the last year he has developed a [REDACTED] condition. He indicated based on his lack of health insurance, he has not been able to see a psychiatrist or psychologist, therefore he has no actual medical diagnosis of a [REDACTED] disorder. There was no medical information submitted to indicate that the petitioner has a [REDACTED] disorder or condition.

#### **CONCLUSIONS OF LAW**

6. 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 § 409.285, Fla. Stat.

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

8. In accordance with Fla. Admin. Code R. 65-2.060 (1), the party having the burden shall establish his/her position by a preponderance of the evidence, to the satisfaction of the hearing officer.

9. Federal Regulations at 42 C.F.R. § 435.541 states in part:

Determinations of disability.

(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 §435.912 on the same issues presented in the Medicaid application. A determination of eligibility for SSI payments based on disability that is made by SSA automatically confers Medicaid eligibility, as provided for under §435.909.

(b) Effect of SSA determinations. (1) Except in the circumstances specified in paragraph (c)(3) of this section—

**(i) An SSA disability determination is binding on an agency until the determination is changed by SSA [emphasis added].**

(ii) If the SSA determination is changed, the new determination is also binding on the agency.

10. As shown in the Findings of Fact, the Department cancelled the petitioner's application for SSI-Related Medicaid benefit on the basis that he did not meet the disability requirements of the program. The petitioner applied for Social Security Disability benefits in July 2014 and was denied by SSA. The petitioner did not allege a new medically diagnosed condition not previously considered by SSA. Therefore, DDD adopted the SSA decision.

11. The petitioner was denied by SSA and appealed that decision. As noted in the above cited Regulation, "[a]n SSA disability determination is binding on an agency until the determination is changed by SSA....The agency must refer to SSA all applicants who allege new information or evidence affecting previous SSA determinations." Thus, the petitioner must continue his appeal with SSA as its decision is binding on the Department and cannot be overturned by this hearing officer.

**DECISION**

Based upon the foregoing Findings of Fact and Conclusions of Law, this appeal is denied and the Department action 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 17 day of December, 2015,

in Tallahassee, Florida.



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Copies Furnished To: [REDACTED] Petitioner  
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