

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

FILED

Nov 25, 2015

Office of Appeal Hearings
Dept. of Children and Families



APPEAL NO. 15F-07667

PETITIONER,

VS.

CASE NO. 

FLORIDA DEPT OF CHILDREN AND FAMILIES
CIRCUIT: 11 DADE
UNIT: 88653


RESPONDENT.

_____ /

FINAL ORDER

Pursuant to notice, the undersigned convened a telephonic administrative hearing in the above-referenced matter on October 30th, 2015 at 10:50 a.m.

APPEARANCES

For the Petitioner:  pro se

For the Respondent: Osmin Bejerano, Operations Management Consultant for the Economic Self-Sufficiency (ESS) program.

STATEMENT OF ISSUE

The petitioner is appealing the respondent's action to deny his application for Medicaid. The petitioner carries the burden of proving his position in this appeal by a preponderance of the evidence.

PRELIMINARY STATEMENT

Serving as a translator was [REDACTED] of ESS.

The petitioner did not submit any documents into evidence.

Respondent's Exhibits 1 and 2 were moved into evidence.

No Notice of Case Action describing the action under appeal was issued to the petitioner or submitted into evidence. On September 1st, 2015, the petitioner filed an appeal to challenge the respondent's denial of his application. Absent evidence to the contrary, the appeal is considered to be timely filed.

FINDINGS OF FACT

1. The petitioner applied for Medicaid for himself on May 18th, 2015. As part of the application process, the respondent is required to explore and verify all factors of eligibility.

2. The petitioner is a single-person household, [REDACTED] years of age.

3. The respondent's position is that because the petitioner has no minor children in his custody, and he is not at least 65 years of age, eligibility for Medicaid can only be established if the petitioner is found to be disabled.

4. On the record, the petitioner claimed not to be disabled. Additionally, the petitioner reported that he was not disabled on his application; therefore, a determination of disability was not explored.

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

6. This hearing was held as a de novo proceeding pursuant to Fla. Admin. Code R. 65-2.056.

7. Florida Administrative Code 65A-1.711 et seq. sets forth the rules of eligibility for elderly and disabled individuals. For an individual under 65 years of age to receive benefits, he or she must meet the disability criteria of Title XVI of the Social Security Act (SSA) appearing in 20 C.F.R. §416.905. The regulations state, in part:

(a) The law defines disability as the inability to do any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. To meet this definition, you must have a severe impairment(s) that makes you unable to do your past relevant work (see §416.960(b)) or any other substantial gainful work that exists in the national economy.

8. As established in the Findings of Fact, the petitioner is not elderly, and claimed not to be disabled when he applied for benefits on May 18th, 2015.

9. Based on the above-cited authorities, the hearing officer concludes that the petitioner is not eligible for Medicaid based on the technical factor of being under the age of 65, and not meeting the criteria for SSA-Related Medicaid coverage. Therefore, the hearing officer affirms the respondent's action to deny Medicaid benefits.

DECISION

Based on the foregoing Findings of Conclusions 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 25 day of November, 2015,

in Tallahassee, Florida.



Justin Enfinger
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Copies Furnished To: [REDACTED] - [REDACTED] Petitioner
Office of Economic Self Sufficiency