

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

FILED

APR 16 2015

OFFICE OF APPEAL HEARINGS
DEPT OF CHILDREN & FAMILIES

APPEAL NO. 15F-00581

PETITIONER,

Vs.

CASE NO. [REDACTED]

FLORIDA DEPT OF CHILDREN AND FAMILIES
CIRCUIT: 11 Dade
UNIT: 88693

RESPONDENT.

FINAL ORDER

Pursuant to notice, the undersigned convened a telephonic administrative hearing in the above referenced matter on March 11th, 2015 at 1:30 p.m.

APPEARANCES

For the petitioner: [REDACTED], pro se.

For the respondent: Olivia Hernandez, Economic Self-Sufficiency Specialist

ISSUE

The petitioner is appealing the respondent's action to deny her application for SSI-Related Medicaid. The petitioner carries the burden of proof in this appeal.

PRELIMINARY STATEMENT

The Florida Department of Children and Families (Department or DCF) determines eligibility for SSI-Related Medicaid programs. In addition to other technical requirements, an individual must be disabled, blind, or aged (65 years or older) to be eligible for SSI- Related Medicaid. The Department of Health's Division of Disability Determinations (DDD) conducts disability reviews regarding medical eligibility for individuals applying for disability benefits under the federal Social Security and Supplemental Security Income programs and the state Medically Needy program. Once a disability review is completed, the claim is returned to DCF for a final determination of non-medical eligibility and effectuation of any benefits due.

Appearing as a witness for the petitioner was [REDACTED] Insurance Specialist and Outreach Worker for Community Health Services.

Appearing as a witness for the respondent were Don Burdick, Supervisor with DDD; Ada Torroella, Operations Management Consultant for the Economic Self-Sufficiency (ESS) program, and Ricardo Herrera, Supervisor for ESS.

Respondent's exhibits 1-6 were admitted into evidence.

By way of a Notice of Case Action dated January 2nd, 2015, the respondent informed the petitioner that her application for Medicaid was denied. The reason stated on the notice is "No household members are eligible for this program." On January 16th, 2015, the petitioner filed a timely appeal to challenge this action.

FINDINGS OF FACT

1. The petitioner is a 55 year-old female who alleges bi-polar disorder, as well as diabetes and hypertension. The petitioner is ambulatory and is not engaging in substantial gainful activity ("SGA" or work activity").

2. The petitioner has 12 years of educational experience and past relevant work in sales at a department store.

3. On November 17th, 2014, the petitioner submitted an application with DCF for SSI-Related Medicaid on the basis of disability.

4. On January 2nd, 2015, DCF informed the petitioner of the denial Medicaid eligibility.

5. On December 30th, 2014, DDD completed a disability review which resulted in an unfavorable (N30) decision. DDD lists the petitioner's primary diagnosis as Diabetes Mellitus. DDD lists the petitioner's secondary diagnosis as Affective Disorders. Decision code N30 signifies "Nonpay. Slight impairment-medical consideration alone, no visual impairment."

6. Medical records dated July 15th, 2014 indicate diagnoses of hypertension, hyperlipidemia, diabetes mellitus and anxiety disorder. A review of the petitioners symptoms indicate that the petitioner has feelings of hopelessness or depression one to three days per week, sleep disturbances or trouble falling or staying asleep four to five days per week, anhedonia: little interest or pleasure in doing things one to three days per week. Mental status exam dated November 3, 2014 shows thought process: goal

directed, no suicidal ideations, hallucinations, or delusions. Obsessions: yes, compulsion: no. Fair insight and judgment. Patient is able to care for self. Continue risperdal, effexor, and klonopin.

7. DDD Case Analysis Form, SSA-416, dated December 30th, 2014 states as follows:

Is [claimant] engaging in SGA? No.
Is impairment severe? No.

[The petitioner] gets tired with walking and moving, normal ability to do personal needs and grooming. Limited hhc, watches TV, normal social activities, able to drive normally.

8. DDD determined at step two of the five steps of sequential evaluation process that the petitioner's condition is of insufficient severity to qualify for SSI-related Medicaid.

9. Mr. Burdock explained that DDD's decision is based on the medical records and that the petitioner's alleged limitations were taken into account to the fullest extent possible.

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

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

12. Fla. Admin. Code R. 65A-1.710 sets forth the rules of eligibility for SSI-Related Medicaid Coverage Groups. The MEDS-AD Demonstration Waiver is a coverage group for aged and disabled individuals (or couples), as provided in 42 U.S.C. § 1396a(m). 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. The regulation states 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.

13. Federal Regulation 42 C.F.R. § 435.541 provides that a state Medicaid determination of disability must be in accordance with the requirements for evaluating evidence under the SSI program specified in 20 C.F.R. §§ 416.901 through 416.998.

14. Federal Regulation 20 C.F.R. § 416.920, Evaluation of Disability of Adults, explains the five-step sequential evaluation process used in determining disability. The regulation states in part:

(a) General—(1) Purpose of this section. This section explains the five-step sequential evaluation process we use to decide whether you are disabled, as defined in § 416.905.

(2) Applicability of these rules. These rules apply to you if you are age 18 or older and you file an application for Supplemental Security Income disability benefits.

(3) Evidence considered. We will consider all evidence in your case record when we make a determination or decision whether you are disabled.

(4) The five-step sequential evaluation process. The sequential evaluation process is a series of five "steps" that we follow in a set order. If we can find that you are disabled or not disabled at a step, we make our determination or decision and we do not go on to the next step. If we cannot find that you are disabled or not disabled at a step, we go on to the next step. Before we go from step three to step four, we assess your residual functional capacity. (See paragraph (e) of this section.) We use this residual functional capacity assessment at both step four and at step five when we evaluate your claim at these steps. These are the five steps we follow:

(i) At the first step, we consider your work activity, if any. If you are doing substantial gainful activity, we will find that you are not disabled. (See paragraph

(b) of this section.)

(ii) At the second step, we consider the medical severity of your impairment(s). If you do not have a severe medically determinable physical or mental impairment that meets the duration requirement in § 416.909, or a combination of impairments that is severe and meets the duration requirement, we will find that you are not disabled. (See paragraph (c) of this section.)

(iii) At the third step, we also consider the medical severity of your impairment(s). If you have an impairment(s) that meets or equals one of our listings in appendix 1 to subpart P of part 404 of this chapter and meets the duration requirement, we will find that you are disabled. (See paragraph (d) of this section.)

(iv) At the fourth step, we consider our assessment of your residual functional capacity and your past relevant work. If you can still do your past relevant work, we will find that you are not disabled. (See paragraph (f) of this section and § 416.960(b).)

(v) At the fifth and last step, we consider our assessment of your residual functional capacity and your age, education, and work experience to see if you can make an adjustment to other work. If you can make an adjustment to other work, we will find that you are not disabled. If you cannot make an adjustment to other work, we will find that you are disabled. (See paragraph (g) of this section and § 416.960(c).)

ANALYSIS

15. In evaluating the first step, it was determined that the petitioner is not engaging in SGA. The first step is considered met.

16. In evaluating the second step, it was determined that the petitioner's impairments were not severe enough to find that the petitioner is eligible for SSI-related Medicaid. Therefore, it was not necessary to continue with the remaining three steps of the five-step evaluation process.

17. The cumulative evidence shows while the petitioner may have some medically determinable impairments, these impairments are not of sufficient severity to preclude her from adjusting to work in the national economy. Therefore, the hearing officer concludes that the petitioner is found not disabled at step two of the five-step evaluation process.

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

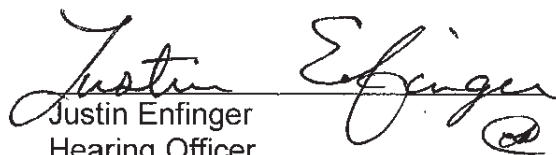
This decision is final and binding on the part of the Department. If the petitioner disagrees with this decision, the petitioner may seek a judicial review. To begin the judicial review, the petitioner must file one copy of a "Notice of Appeal" with the Agency Clerk, Office of Legal Services, Bldg. 2, Rm. 204, 1317 Winewood Blvd., Tallahassee,

FINAL ORDER (Cont.)
15F-0581
PAGE-8

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 16th day of April, 2015,

in Tallahassee, Florida.



Justin Enfinger
Hearing Officer
Building 5, Room 255
1317 Winewood Boulevard
Tallahassee, FL 32399-0700
Office: 850-488-1429
Fax: 850-487-0662
Email: Appeal.hearings@myflfamilies.com

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