

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-08078

PETITIONER,

Vs.

CASE NO. 

FLORIDA DEPARTMENT OF  
CHILDREN AND FAMILIES  
CIRCUIT: 05 Hernando  
UNIT: 88083

RESPONDENT.

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**FINAL ORDER**

Pursuant to notice, the undersigned telephonically convened an administrative hearing in the above-referenced matter at 8:20 a.m. on October 16, 2015.

**APPEARANCES**

For the Petitioner:  pro se

For the Respondent: Marilyn Ficke, ACCESS Supervisor

**STATEMENT OF ISSUE**

At issue is whether respondent's action to deny petitioner Medicaid benefits is proper. The petitioner carries the burden of proof by the preponderance of evidence.

**PRELIMINARY STATEMENT**

By notice dated September 14, 2015, the respondent notified petitioner he was denied Medicaid; due to not meeting the disability requirement. Petitioner timely requested a hearing to challenge the denial.

Petitioner did not submit exhibits. Respondent submitted four exhibits, entered as Respondent Exhibits "1" through "4". The record was held open until October 20, 2015 for the respondent to submit an additional exhibit. The exhibit was received timely and entered as Respondent Exhibit "5". The record was closed on October 20, 2015.

### **FINDINGS OF FACT**

1. Petitioner previously received Medicaid through the Social Security Administration (SSA). In January 2015, the SSA terminated petitioner's Supplemental Security Income (SSI). As a result, his Medicaid was also terminated.
2. Petitioner asserts the SSA wrongfully terminated his SSI.
3. Petitioner has reapplied several times for disability through the SSA since the January 2015 termination. The last application was on May 1, 2015. The SSA denied petitioner's May 1, 2015 application on July 2, 2015.
4. On September 1, 2015 petitioner appealed the SSA denial. An appeal date has not been set.
5. On September 8, 2015, petitioner (age 24) submitted a SSI-Related Medicaid application for himself. Petitioner does not have children.
6. The Department is required to adopt the SSA denial decision when the SSA denial is made within 12 months of the applicant's Medicaid application. Unless the applicant claims the medical condition has changed or deteriorated.
7. There is no indication that the petitioner's medical condition has changed or deteriorated since the SSA terminated his SSI.
8. On September 14, 2015, the Department mailed petitioner a Notice of Case Action notifying Medicaid was denied due to not meeting the disability requirement.

**CONCLUSIONS OF LAW**

9. 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.

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

11. The Code of Federal Regulations at 42 C.F.R. § 435.541 "Determination of Disability" in part states:

(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 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.

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

(2) The agency must refer to SSA all applicants who allege new information or evidence affecting previous SSA determinations of ineligibility based upon disability for reconsideration or reopening of the determination, except In cases specified in paragraph (c) (4) of this section.

(c) Determinations 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 disabling condition different from, or in addition to, that considered by SSA in making its determination; or

(ii) Alleges more than 12 months after the most recent SSA determination denying disability that his or her condition has changed or deteriorated since that SSA determination and alleges a new period of disability which meets the durational requirements of the Act, and has not applied to SSA for a determination with respect to these allegations.

(iii) Alleges less than 12 months after the most recent SSA determination denying disability that his or her condition has changed or deteriorated since that SSA determination, alleges a new period of disability which meets the durational requirements of the Act. and-

(A) Has applied to SSA for reconsideration or reopening of its disability decision and SSA refused to consider the new allegations; and/or

(B) He or she no longer meets the nondisability requirements for SSI but may meet the State's nondisability requirements for Medicaid eligibility.

12. In accordance with the above authority, respondent denied petitioner's September 8, 2015 SSI-Related Medicaid application due to adopting the SSA July 2 2015 denial decision.

13. The above authority states the Department must make a determination of disability if the individual "alleges a disabling condition different from, or in addition to, that considered by the SSA in making its determination".

14. Petitioner did not indicate that he has a different or new medical condition the SSA is unaware of.

15. The evidence establishes that the SSA denied petitioner disability on July 2, 2015 and petitioner appealed the SSA denial decision on September 1, 2015.

16. In careful review of the cited authority and evidence, the undersigned concludes respondent followed Rule in denying petitioner Medicaid; due to adopting the July 2, 2015 SSA denial decision.

### **DECISION**

Based upon the foregoing Findings of Fact and Conclusions of Law, the 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 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  
Office of Economic Self Sufficiency