

BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS
STATE OF GEORGIA

R [REDACTED] H [REDACTED],
Petitioner,
v.
DHS, FAMILY & CHILDEN SERVICES,
Respondent.

:
:
: Docket No.
: OSAH-DFCS-ABDA-[REDACTED] Miller
:
: Agency Reference No.: 146075519
:

INITIAL DECISION

I. Introduction

The Petitioner in this matter seeks review of the Respondent's action denying his application for Medicaid. The hearing took place on October 19, 2015. The Petitioner appeared *pro se*. Bennie Joiner, Medicaid caseworker for the Respondent's Jeff Davis County office, appeared as the Respondent's representative. For the reasons set forth below, the Respondent's action is **REVERSED** and **REMANDED**.

II. Findings of Fact

1.

The Petitioner has been unable to work since June 16, 2015, due to a significant deterioration in his vision. He first noticed a problem with his eyesight approximately two years ago. Then, in June 2015, his vision became markedly worse, and he learned that he had detached retinas in both eyes. The Petitioner's physician recommended immediate surgery to avoid the possibility of permanent blindness. However, the Petitioner could not afford the surgery on his own. (Testimony of R [REDACTED] H [REDACTED]; Exhibit P-1.)

2.

On June 25, 2015, the Petitioner submitted an application for Medicaid. The Respondent determined that the Petitioner was potentially eligible for Medicaid under an aged, blind or disabled ("ABD") class of assistance. However, because he was financially eligible for Supplemental Security Income ("SSI"), a case worker informed him that he was required to apply for SSI before his Medicaid application would be considered. (Testimony of Bennie Joiner and Petitioner.)

3.

On July 16, 2015, the Petitioner submitted an application for SSI through the Social Security Administration ("SSA"). SSA has not yet issued an eligibility determination, and the Petitioner's SSI application remained pending as of the date of the evidentiary hearing. (Testimony of Petitioner.)

4.

The Petitioner's vision is severely impaired and he can no longer drive. Additionally, he has been unable to continue his work as concrete finisher and contract laborer because his visual impairment renders him unable to use essential tools like measuring tape and hammers. The Petitioner is less than 65 years of age. (Testimony of Mr. Joiner and Petitioner; Exhibit P-1.)

5.

On July 22, 2015, after determining that the Petitioner was under age 65 and that he was financially eligible for SSI, the Respondent denied the Petitioner's Medicaid application.¹ The Petitioner timely appealed. (Testimony of Mr. Joiner and Petitioner; Exhibits R-1, R-2.)

6.

On September 18, 2015, the Petitioner underwent surgery on his left eye after receiving financial assistance from the Georgia Lions Lighthouse Foundation. On the date of the hearing, the Petitioner wore a bandage over his left eye and reported that his vision remained impaired, although it had shown some improvement since the surgery. The Petitioner still requires surgery on his right eye, which continues to deteriorate. (Testimony of Petitioner; Exhibit P-1.)

III. Conclusions of Law

1.

Because this matter involves an application for Medicaid benefits, the Petitioner bears the burden of proof. Ga. Comp. R. & Regs. 616-1-2-.07(e). The standard of proof is a preponderance of the evidence Ga. Comp. R. & Regs. 616-1-2-.21(4).

2.

The Medicaid program is a cooperative venture between the federal and state governments through which medical care is offered to the needy. Wilder v. Virginia Hosp. Ass'n, 496 U.S. 498, 502 (1990). Although participation in the program is voluntary, a state that chooses to participate must comply with the program requirements found in federal law. Id. at 502.

¹ At the hearing, the Petitioner testified that he had an eight-month-old child. It should be noted that a specified adult who resides with a qualified child may be eligible for Medicaid benefits under the Parent/Caretaker Medicaid class of assistance. However, because the Petitioner applied for Medicaid assistance as a single individual and it is unclear from the record whether the child lives with the Petitioner, the Petitioner's potential eligibility for Parent/Caretaker Medicaid cannot be determined at this time. (Testimony of Petitioner; Exhibit R-1.)

3.

To be eligible for one of the ABD Medicaid classes of assistance, an applicant must be aged, blind, or disabled. The Petitioner is not 65 years of age or older; therefore, he is potentially eligible for ABD Medicaid only if he is found blind or disabled. Economic Support Services Manual of the Georgia Department of Human Services (“Medicaid Manual”) §§ 2101, 2205.

4.

The Respondent’s policy manual provides that “[a]ny individual applying for ABD Medicaid at [the Division of Family and Children Services (“DFCS”)] who appears to be financially eligible for SSI must be referred to the local SSA office to file an application.” Medicaid Manual § 2060-8. In addition, “[t]he ABD Medicaid application would be denied pending the outcome of the SSI application.” Id. However, the Respondent is not authorized to apply this policy to the extent it is inconsistent with 42 C.F.R. § 435.541(c)(2), as explained below.

5.

When an applicant for Medicaid has applied for SSI, the Respondent generally does not make an independent determination of blindness or disability. Instead, SSA makes the disability determination,² and “[a] determination of eligibility for SSI payments based on disability that is made by SSA automatically confers Medicaid eligibility” 42 C.F.R. § 435.541(a)(2). Two exceptions to this procedure are set forth in the Respondent’s policy manual, as follows:

DFCS is responsible for determining Medicaid eligibility on SSI applicants for the following months:

- the three months prior to the month of SSI application for SSI approvals and denials
- intervening months associated with a SSI application for which the applicant is ineligible for a SSI payment for a reason other than failure to meet disability.

Medicaid Manual § 2060-8. Neither exception is applicable to this case.

6.


However, under federal regulations, if an applicant has applied for both Medicaid and SSI, and “SSA has not made an SSI disability determination within 90 days from the date of the individual’s application for Medicaid,” the Respondent is required to make its own determination of whether the applicant is disabled. 42 C.F.R. § 435.541(c)(2). In this case, the Petitioner applied for Medicaid on July 16, 2015. Therefore, the 90-day period has elapsed, and the Respondent is required to issue a disability determination independent of SSA.

² Blindness is treated as a disability for purposes of the disability determination.

IV. Decision

In accordance with the above Findings of Fact and Conclusions of Law, the Respondent's denial of the Petitioner's application for Medicaid is hereby **REVERSED** and **REMANDED**. Within ten days of the entry of this Initial Decision, the Respondent is **ORDERED** to obtain the necessary medical records and documentation from the Petitioner and to refer the matter to the State Medical Eligibility Unit ("SMEU") for a disability determination. See 42 C.F.R. §§ 435.541(d), (e); Medicaid Manual § 2205. If the Petitioner is found to be blind or disabled, the Respondent shall obtain any additional information necessary to process his Medicaid application and determine if he meets all other eligibility requirements. The Petitioner shall cooperate with the Respondent to ensure that the requested information and documentation is promptly provided.

SO ORDERED, this 26th day of October, 2015.



KRISTIN L. MILLER
Administrative Law Judge