

STATE HEARING DECISION

ODHS 4005 (Rev. 9/94)

County WASHINGTON	District Hearings Section CANTON	Assistance Group Name		Assistance Group Number
Place of Hearing WASHINGTON CDHS	Initial Hearing Date 01/03/2001	Rescheduled Postponed to	Rescheduled Postponed to	Rescheduled Postponed to

Appellant/Representative	Appellant Representation
	Local Agency Representation Frank Stoops - ODJFS CMS Representative; Tammy Wagner - CDJFS CMS Case Worker

Date Notice Mailed 12/11/2000	Date Received by Local Agency	Date Received by ODHS 12/13/2000	Date Appeal Summary Received 12/26/2000	Date Scheduling Notice Mailed 12/22/2000
---	-------------------------------	--	---	--

Appeal Number(s)/Program(s) 1000457/DA, 9977031/MED

Notice to Appellant

This is the official report of your hearing and is to inform you of the decision and order in your case. All papers and materials introduced at the hearing or otherwise filed in the proceeding make up the hearing record. The hearing record will be maintained by the Ohio Department of Job and Family Services. If you would like a copy of the official record, please telephone the hearing supervisor at the CANTON District hearing section at 1-800-686-1569.

If you believe this state hearing decision is wrong, you may request an administrative appeal by writing to: Ohio Department of Job and Family Services, Office of Legal Services, 30 East Broad Street, 31st Floor, Columbus, Ohio 43266-0423 or FAX (614) 752-8298. Your request should include a copy of this hearing decision and an explanation of why you think it is wrong. Your written request must be received by the Office of Legal Services within 15 calendar days from the date this decision is issued. *(If the 15th day falls on a weekend or holiday, this deadline is extended to the next work day.)*

During the 15-day administrative appeal period you may request a free copy of the tape recording of the hearing by contacting the district hearings section.

If you want information on free legal services but don't know the number of your local legal aid office, you can call the Ohio State Legal Services Association, toll free, at 1-800-589-5888, for the local number.

ISSUE SECTION

Issue #1 9977031 Medicaid

On 12/11/00, the agency denied the appellant's 5/5/00 Medicaid application because County Medical Services (CMS) found the appellant not to be disabled 9/20/00. The agency's action was not upheld as the Hearing Officer found that the agency did not follow regulations in processing the appellant's application.

Issue #2 1000457 Disability Assistance (DA)

On 12/11/00, the agency denied the appellant's 5/5/00 Disability Assistance application because CMS found the appellant not to be disabled 9/20/00. The agency's action was

MBR

Appeal(s) SUSTAINED 1000457, 9977031	Date Issued 01/08/2001	Compliance 1000457, 9977031
---	----------------------------------	------------------------------------

Distribution: Original to appellant, one copy to local agency; one copy to district Hearing section; one copy to district office; two copies to State Hearings. *(Photocopy to appellant's authorized representative, if any, and to ODHS units as appropriate.)*

Appeal Number(s) 1000457, 9977031

not upheld as the Hearing Officer found that the agency did not follow regulations in processing the appellant's application.

PROCEDURAL MATTERS

The appellant applied on 5/5/00. The agency referred the case to CMS and it was received on 7/18/00 and deferred on 7/24/00 for additional information. The case was returned to CMS on 9/5/00 and denied on 9/20/00. The agency sent the appellant notice of the denial on 12/11/00 and the appellant requested a hearing on 12/13/00. On 12/22/00, a notice was mailed to the appellant setting a 1/3/01 hearing date. The CMS appeal summary was received on 12/26/00.

FINDINGS OF FACT

Undisputed Facts

1. The agency determined that the appellant, age 51, was not presumptively disabled nor engaged in substantial gainful activity and submitted the case to CMS for a disability determination. The appellant has a pending SSI application and is not medication dependent.
2. CMS evaluated the medical information received on the appellant's allegation of a "bad back". The medical information consisted of the Social Summary dated 5/25/00 and a letter from an occupational clinic which stated that the appellant's medical documentations were in the possession of the Bureau of Disability Determinations. These reports were not secured by the agency. The agency claims that a Basic Medical was not completed as there are no doctors in the tri-county area that will accept the appellant as their patient.
3. CMS denied the appellant's application due to a lack of medical documentation.

CONCLUSIONS OF POLICY

Policy

OAC 5101:1-39-032 and 5101:1-5-21 set forth the regulations for CMS referrals for Medicaid and DA and states the agency must complete the Social Summary Report and

Appeal Number(s) 1000457, 9977031

secure a Basic Medical and a Mental Functional Capacity assessment, if appropriate, and all available medical information to be submitted to CMS.

Analysis

After careful consideration of the evidence and law presented at the hearing, the Hearing Officer finds that the agency completed a Social Summary on 5/25/00 which indicates that the appellant is alleging back problems. This report also states that the appellant appears to be slow in understanding, talks fast, and is hard to understand; however, a Mental Functional Capacity assessment and a Basic Medical were not completed as there are no doctors accepting patients in the tri-county area. The agency did not seek a doctor outside the tri-county area nor did they secure the medical information from Social Security that was in the possession of the Bureau of Disability Determinations. Thus, the agency's denials can not be upheld.

HEARING OFFICER'S RECOMMENDATIONS

Issue #1 9977031 Medicaid

Based on the record developed at the hearing, the Hearing Officer recommends that the appeal be sustained as the agency did not follow the regulations in processing the record for CMS. As to assure that the appellant receives the full amount of benefits that he is entitled to receive, the agency is directed to assist the appellant in finding medical professionals to complete all necessary forms and gather all additional information and resubmit to CMS for a disability determination. The 5/5/00 application date is hereby secured. Subsequent to this hearing decision if the appellant is adversely affected, he retains full hearing rights.

Issue #2 1000457 Disability Assistance

Based on the record developed at the hearing, the Hearing Officer recommends that the appeal be sustained as the agency did not follow the regulations in processing the record for CMS. As to assure that the appellant receives the full amount of benefits that he is entitled to receive, the agency is directed to assist the appellant in finding medical professionals to complete all necessary forms and gather all additional information and

Appeal Number(s) 1000457, 9977031

resubmit to CMS for a disability determination. The 5/5/00 application date is hereby secured. Subsequent to this hearing decision if the appellant is adversely affected, he retains full hearing rights.

FINAL ADMINISTRATIVE DECISION AND ORDER

Issue #1 9977031 Medicaid

Finding the Hearing Officer's decision to be supported by the evidence, the recommendations above are adopted, and the appeal is SUSTAINED. The agency is required to comply with the terms set forth in the Hearing Officer's recommendation above. OAC Rule 5101:6-7-03(B)(1)(a) requires compliance with this decision within fifteen calendar days from the date the decision is issued, but in no event later than ninety calendar days from the date of the hearing request. Compliance shall be promptly reported to the Bureau of State Hearings, ODJFS, via "State Hearing Compliance", ODJFS 4068, accompanied by appropriate documentation.

Issue #2 1000457 Disability Assistance

Finding the Hearing Officer's decision to be supported by the evidence, the recommendations above are adopted, and the appeal is SUSTAINED. The agency is required to comply with the terms set forth in the Hearing Officer's recommendation above. OAC Rule 5101:6-7-03(B)(1)(a) requires compliance with this decision within fifteen calendar days from the date the decision is issued, but in no event later than ninety calendar days from the date of the hearing request. Compliance shall be promptly reported to the Bureau of State Hearings, ODJFS, via "State Hearing Compliance", ODJFS 4068, accompanied by appropriate documentation.

Exhibits

- A. CMS referral
- B. Social Summary Report
- C. CMS determination
- D. Miscellaneous documentation

Appeal Number(s) 1000457, 9977031

Date Issued: 01/08/2001