

## STATE HEARING DECISION

ODHS 4005 (Rev. 9/94)

County <b>CUYAHOGA</b>	District Hearings Section <b>CLEVELAND</b>	Assistance Group Name		Assistance Group Number
Place of Hearing <b>CUYAHOGA CDHS</b>	Initial Hearing Date <b>11/18/2002</b>	Rescheduled Postponed to <b>12/16/2002</b>	Rescheduled Postponed to	Rescheduled Postponed to

Appellant/Representative	Appellant Representation
	Local Agency Representation <b>A. Rosario, caseworker #7349</b>

Date Notice Mailed	Date Received by Local Agency	Date Received by ODHS <b>10/30/2002</b>	Date Appeal Summary Received	Date Scheduling Notice Mailed <b>12/06/2002</b>
Appeal Number(s)/Program(s) <b>1092257/MED</b>				

### 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 CLEVELAND District hearing section at 1-800-686-1551.

**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 43215-3414 or FAX (614) 728-9574.** 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:**

Appeal #1092257

An application for Medicaid was filed with the agency in 3/02. The agency has not yet forwarded information to County Medical Services (CMS) for a determination of disability. The MA D was denied in error by the agency in 4/02. The issue under appeal is whether the agency has correctly processed the 3/02 Medicaid application.

The agency has not processed the 3/02 Medicaid application in accordance with the rules.

### **PROCEDURAL MATTERS:**

Notice of denial of the medicaid was issued in 4/02, but the denial was done in error by the agency. The appellant's authorized representative disputes the denial and requested a state hearing. The state hearing request was received by the Bureau of State Hearings on 10/30/02. The hearing schedule notice was issued

LMS

Appeal(s) <b>SUSTAINED 1092257</b>	Date Issued <b>01/15/2003</b>	Compliance <b>1092257</b>
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**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) 1092257
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on 11/15/02 and the state hearing was scheduled for 11/18/02. Upon a show of good cause, the hearing was rescheduled and heard on 12/16/02. An appeal summary was received from the agency on 12/16/02. The appellant's authorized representative was present at the hearing; the agency was represented by the appellant's caseworker.

**FINDINGS OF FACT:**

1. The appellant has outstanding medical bills from 2/02, 3/02, and 5/02.
2. The authorized representative filed an application for Medicaid with the agency in 3/02.
3. The appellant is the only member of the Medicaid assistance group.
4. At the time of the Medicaid application, the appellant was added to her daughter's public assistance case.
5. In 4/02, the daughter's family moved back to Puerto Rico, and the agency proposed to close the whole case.
6. The agency acknowledges that they erred by denying the appellant's MA D in 4/02 when closing the case.
7. In 5/02, the appellant expired (see Exhibit A).
8. The authorized representative continued to work with the agency to provide the Basic Medical for a CMS determination of disability.
9. The authorized representative provided medical records to the agency (see Exhibit B).
10. It was not established whether the medical records submitted by the agency had appropriate physician signatures.
11. The authorized representative informed the agency that the appellant's physician would not complete the Basic Medical because of the appellant's death (see Exhibit C).
12. The authorized representative also requested that the agency send the appellant's medical records and death certificate to CMS for a determination of disability (refer to Exhibit C).
13. As of the date of this hearing, the agency has not sent any medical information to CMS for a determination of disability.

**CONCLUSIONS OF POLICY:**

**Policy:**

Ohio Administrative Code (OAC) 5101:1-39-032 states if a member of an assistance group has, appears to have, or alleges to have a physical or mental condition which may limit their ability to work, the CDHS shall begin developing the medical information necessary for submission to the county medical services section (CMS) for a determination of disability for Medicaid purposes. All applicants who appear potentially eligible for Medicaid who do not otherwise meet the limiting physical factor requirement as stated in rules 5101:1-39-03 and 5101:1-39-031 of the Administrative Code shall be referred to the ODHS to have a medical determination made by CMS.

Appeal Number(s) 1092257
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When the ODHS 7302, ODHS 7308, and ODHS 7004 have been completed and all readily available medical evidence is gathered, the entire medical case for the applicant must be submitted to CMS for a disability determination.

In those instances where a physician signature is difficult to obtain and other medical evidence has been gathered which does contain the appropriate signatures, the CDHS should collect all available medical evidence and submit it to CMS. CMS will then weigh all evidence submitted.

**Analysis:**

The agency has been waiting to send the appellant's medical file to CMS until they receive a completed Basic Medical (ODHS 7302) from the appellant's physician. However, the authorized representative informed the agency that the physician would not cooperate in completing the Basic Medical and requested that the agency submit to CMS the medical information they already had. As of the date of this hearing, the agency has not submitted that information to CMS.

In accordance with the above rules, if the medical information provided by the authorized representative has appropriate signatures on it, the agency should forward the medical records they have to CMS for a determination of disability.

**HEARING OFFICER'S RECOMMENDATIONS:**

Based on the record before me, I find the Appeal #1092257 concerning Medicaid should be SUSTAINED. The agency should review the medical information provided by the authorized representative and if appropriately signed, should submit that information along with the death certificate, to CMS for a determination of disability back to 2/02.

**FINAL ADMINISTRATIVE DECISION AND ORDER:**

Finding the hearing officer's decision to be supported by the evidence, the recommendations above are adopted.

Appeal #1092257 (Medicaid) is **SUSTAINED**. **COMPLIANCE IS REQUIRED**

O.A.C. Section 5101: 6-7-03 requires prompt compliance with state hearing decisions. For decisions involving public assistance, compliance shall be achieved within 15 calendar days from the date the decision is issued, but in no event later than 90 calendar days from the date of the hearing request.

Compliance shall be promptly reported to the Bureau of State Hearings, ODHS, via "State Hearing Compliance," ODHS 4068, accompanied by appropriate documentation.

**EXHIBITS:**

A. Death Certificate

Appeal Number(s) 1092257
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- B. Agency date-stamped receipt of medical records
- C. Written request to submit information to CMS

**APPENDIX:**

- 1. Appeal summary and miscellaneous papers

Date Issued: 01/15/2003