

IN THE OHIO DEPARTMENT OF JOB AND FAMILY SERVICES
BUREAU OF STATE HEARINGS

ADMINISTRATIVE APPEAL SECTION

IN RE APPEAL OF:

DOCKET NO. 2005-AA-1145
APPEAL NO(S). 1251450 / MED
1253418 / DFA
AG NO. HEARING REQUEST DATE: 10/12/2005
HEARING DECISION DATE: 11/18/2005 / **REP**
APPEAL REQUEST DATE: 12/05/2005
AGENCY: **Montgomery** CDJFS

Administrative Appeal Decision

This appeal concerns an application for Disability Financial Assistance and Medicaid for the disabled benefits filed by the Appellant at the beginning of 2005. By March the agency compiled the initial medical assessment of the Appellant and forwarded it to the ODJFS County Medical Services section for a disability determination. In June County Medical requested the agency to develop additional documentation which the agency returned to County Medical in July. The Appellant requested the present appeal in October, apparently based on the agency's delay in making a decision on his application.

The hearing officer overruled the appeal, finding that both programs require a disability determination and that the Appellant had suffered no adverse action awaiting a County Medical determination in this regard. But that conclusion overlooks the fact that a request for a state hearing may be made when an "application for benefits has been ... not acted upon with reasonable promptness."¹ And there are time limits for agency processing of Medicaid applications. The general time limit between the time an application is completed and a notice of approval or denial is sent is 45 days. That limit is extended to 90 days in cases which, like the present case, an eligibility determination is dependent upon a CMS disability determination. Moreover, even the 90 day limit may be exceeded in situations where completion of the determination of eligibility is delayed because of circumstances beyond the control of the ...(county, such as) Failure with good cause to secure necessary verifications...(or) Failure or delay on the part of an examining physician to provide all needed information.@²

Thus, in the present case it is clear that the application has pended far beyond these time limits,

¹ OAC 5101:6-3-01(A)(1)

² OAC 5101:1-38-01(F)(4)

despite the fact that County Medical took it under advisement in July. For that reason, the Appellant is entitled to a decision compelling it and the agency to act upon his application with all due speed.

DECISION

Accordingly we must ORDER that the hearing decision be REVERSED and COMPLIANCE issue to County Medical to immediately make a disability determination regarding the Appellant and transmit it to the agency on which to make a decision on his Medicaid and Disability Financial Assistance applications.

The agency is directed to send the Appellant written notice of the action taken as a result of this decision via an ODJFS 4074, 4065, 7334, 7401, 4701 or other appropriate state form. The agency is to attach a copy of this notice to the ODJFS 4068 State Hearing Compliance form. The Appellant retains all state hearing rights regarding any future agency determination.



Robert J. Frankart
Administrative Appeal Officer

CONCUR:



Margaret Adams
Administrative Appeal Officer



Robert Mullinax, Attorney-at-Law
Chief Legal Counsel

DATE OF ISSUANCE December 19, 2005

This Administrative Appeal decision is the final decision on this appeal from the state department of job & family services. It is binding on the department and agency, unless it is reversed or modified on appeal to the court of common pleas.

An Appellant who disagrees with this decision may appeal it to the court of common pleas pursuant to sections 119.12 and 5101.35(E) of the Revised Code. The Appellant shall mail a notice of appeal to the department at the following address:

**Ohio Department of Job & Family Services
Office of Legal Services
30 E. Broad Street, 31st Floor
Columbus, OH 43215-3414**

The Appellant must also file the notice of appeal with the court of common pleas in the county in which the Appellant resides (Franklin County, if the Appellant does not reside in Ohio). Please note: Both the mailing to the department and the filing with the court must occur within thirty (30) calendar days of the date of issuance of this decision.

If you have questions about appealing to a court, contact your attorney, local legal aid society, or bar association. If you want information about free legal services, you can call the Ohio State Legal Services Association, toll free, at 1-800-589-5888.

cc: Director, Montgomery County Department of Job and Family Services
Hearings Supervisor, REP, Bureau of State Hearings
Cheryl Lo, Leisa Allender
Appellant