

In the matter of:

<u>Case Number:</u>	<u>County:</u>	
5071762909	HAMILTON	
<u>Appeal:</u>	<u>Program:</u>	<u>Disposition:</u>
1375191	MED	SUSTAINED
Compliance Required		
Decision Date:	01/02/2008	
Request Date:	10/04/2007	
Hearing Officer:	PAUL STANISZEWSKI	

State Hearing Decision

ISSUE (1375191):

To establish Medicaid for the Disabled (MA D) eligibility, an applicant must be determined to be disabled by the Social Security Administration (SSA) or the State of Ohio, Disability Determination Unit (DDU). On 09/17/07, the agency denied Medicaid for the Disabled (MA D), effective 09/16/07, because there is no objective medical documentation that establishes that her alleged impairments are severe or that they significantly limit her ability to do basic work activities in the national economy.

The appellant and her mother dispute the DDU determination.

The DDU representative stated that the DDU did not receive or review any medical information related to Epilepsy.

Based on the record, the hearing officer finds that the disability determination process was not completed correctly because the DDU did not receive the Epilepsy information from the agency.

Therefore, the appeal is Sustained.

PROCEDURAL MATTERS:

The HCDJFS mailed the notices to the address of record on 09/17/07. On 10/04/07, the Bureau of State Hearings received the State Hearing request.

The hearing was scheduled and heard on 12/17/07.

The agency representatives are Shelette Richardson.

FINDINGS OF FACT:

1. The Medicaid for the Disabled (MA D) assistance group consists of the thirty-four (34) year-old appellant, only.

2. She has diagnoses of a Seizure Condition, Migraine Headaches, Ovarian Cysts, allergies, and high cholesterol.
3. The status of her Supplemental Security Income (SSI) application is pending.
4. On 02/07/07, she submitted an initial Medicaid application to the HCDJFS.
5. On 05/08/07, the agency submitted the disability referral to the DDU.
6. On 05/15/07, DDU received the disability referral from the agency.
7. The DDU did not defer the case for additional medical information.
8. The DDU did not receive any information of Epilepsy from the agency.
9. On 08/14/07, the DDU determined that her alleged conditions are not severe and that they are not disabling.
10. The disability referral denial, ODHS 3600 form was sent to the HCDJFS.
11. On 09/17/07, the agency mailed the Medicaid denial notice to the appellant.

POLICY:

Ohio Admin. Code (OAC) [§5101:1-39-03 Medicaid: limiting physical factor.](#)

(B) Definitions.

- (6) "...Disability determination" is the process by which the CMS unit determines whether an individual meets the limiting physical factor eligibility criteria of "blind" or "disabled" for Medicaid eligibility. The CMS unit determines blindness and disability in accordance with SSA policy. The SSA sets forth a five-step sequential evaluation process for determining whether or not an individual is disabled...

(C) ...Administrative agency responsibilities.

- (1) The administrative agency shall determine Medicaid eligibility in accordance with the eligibility rules contained in Chapters 5101:1-37 to 5101:1-42 of the Administrative Code.
- (2) The administrative agency shall determine the limiting physical factor is met and shall not submit a CMS packet to the CMS unit when:
 - (a) An individual meets the definition of "aged"; or
 - (b) An individual has been approved for SSA disability benefits for the individual's own disability or blindness as defined in paragraph (B)(14) of this rule.
 - (c) An individual has a level of care (LOC) determination in accordance with rule [5101:1-39-04](#) of the Administrative Code.
- (3) The administrative agency shall determine the limiting physical factor is not met and shall submit a CMS packet to the CMS unit for a disability determination when:
 - (a) An individual has, alleges, or appears to have a physical or mental impairment or combination of impairments that may limit his or her ability to work;

- (b) An individual is, alleges being or appears to be blind;
 - (c) An individual is potentially eligible for alien emergency medical assistance (AEMA) under a category of Medicaid that requires a disability determination, in accordance with rule [5101:1-41-20](#) of the Administrative Code;
 - (d) An individual has an application for SSA disability benefits pending with the SSA; and
 - (e) An individual has, alleges or appears to have a physical or mental impairment, blindness, or combination of impairments, but is eligible for Medicaid under a category other than disability or blindness...
- (6) ...Upon request, the administrative agency shall assist the individual in obtaining medical documentation to support the disability or blindness claim. Upon request, the administrative agency shall utilize administrative funds to assist the individual in receiving an eye examination or medical/psychological examination to determine whether an individual is blind or disabled.
- (7) The administrative agency shall obtain all available current medical information as well as any other information requested by the CMS unit and submit it in the CMS packet.
- (a) The administrative agency shall include in the CMS packet all available current medical information for all alleged impairment(s) or combination of impairments.
 - (b) The administrative agency shall assist the individual in obtaining existing medical information, tests, services or records from other entities such as the SSA, Ohio rehabilitation services commission, workers' compensation, etc...
- (E) ...County medical services (CMS) unit responsibilities.
- (1) The CMS unit shall approve, deny or defer disability determinations submitted by the administrative agency. The CMS unit shall notify the administrative agency upon approving, denying or deferring a disability determination via the electronic eligibility system and the [JFS 03600](#), "County Medical Services Disability Determination".

Effective Date: January 1, 2005

Five Step Sequential Evaluation Process (20CFR416.920)

- Step One: Is the appellant engaged in substantial gainful employment?
- Step Two: Is there enough documentation to establish severity?
- Step Three: Does the condition prevent work for 9 months or longer?
- Step Four: Residual functional capacity (RFC) able to perform past relevant work?
- Step Five: Is claimant able to perform other work in the National Economy?

Effective Date: 04/01/04

ANALYSIS:

It is undisputed that the agency received the initial Medicaid application on 02/07/07, that no retroactive Medicaid coverage was requested, and that the DDU did not defer the disability referral for additional medical information.

Based on the information that was submitted, the DDU determined that her seizure condition is not severe and that it does not significantly limit her ability to do basic work activities in the national economy.

The appellant and her mother dispute the DDU determination.

The appellant submitted a statement from her Neurologist that reads in part, "...the appellant is presently under my care for Epilepsy and Migraine...Her symptoms are characterized by intermittent seizures, headaches and limited fund of knowledge. She is unable to find gainful employment at this time, and this will likely continue indefinitely..."

In response to the appellant's testimony, the DDU representative stated that the DDU did not receive or review any medical information related to Epilepsy.

Based on the record, the hearing officer finds that the disability determination process was not completed correctly because the DDU did not receive the Epilepsy information from the agency.

Therefore, the appeal is Sustained.

HEARING OFFICER'S RECOMMENDATIONS:

Issue (1375191)

The appeal should be Sustained. The agency should re-open the application, assist the appellant and her representative in obtaining any additional medical documents, and forward the information to the DDU.

The DDU should make a revised disability determination, effective 02/01/07, based on the additional medical information. Upon completion, the DDU determination should be forwarded to the HCDJFS, via form ODHS 3600.

The agency shall notify the appellant of the determination, in writing, affording appeal rights.

The agency shall attach a copy of the notice to the State Hearing Compliance form.

**OHIO DEPARTMENT OF JOB AND FAMILY SERVICES
BUREAU OF STATE HEARINGS
FINAL ADMINISTRATIVE DECISION AND ORDER:**

The Hearing Officer's recommendation is adopted.

Issue (1375191)

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 within fifteen calendar days from the date the decision is issued, but in no event later than ninety days from the date of the hearing request for those decisions involving public assistance...

Hearing Authority

January 2, 2008

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 CINCINNATI District hearing section at 1-866-635-3748.

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, Bureau of State Hearings, P.O. BOX 182825, Columbus, OH 43218-2825 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 Bureau of State Hearings 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.

Aviso a la Apelante

Esta es la decisión estatal administrativa de su caso. Todos los documentos y materiales presentados como prueba en la vista o de otra manera radicados componen el récord administrativo. El récord administrativo será mantenido por el Ohio Department of Job and Family Services.

Si usted cree que esta decisión estatal administrativa es errónea, usted puede solicitar una apelación administrativa escribiendo al: Ohio Department of Job and Family Services, Bureau of State Hearings, P.O. Box 182825, Columbus, Ohio 43218-2825 o facsímil (614) 728-9574. Su solicitud debe indicar por qué usted piensa que la decisión administrativa es errónea. Usted puede completar la solicitud de apelación incluida con esta decisión. Su solicitud escrita o formulario de apelación tiene que ser recibido por el Bureau of State Hearings dentro de los 15 días calendario desde la fecha en que esta decisión es expedida. (Si el 15to. día recae sobre un fin de semana o un día feriado, esta fecha límite es extendida al próximo día laborable). Durante el período de 15 días de apelación administrativa, usted o su representante pueden solicitar una copia gratuita del récord administrativo y de la grabación de la vista llamando al Bureau of State Hearings al 1-866-635-3748 (seleccione la opción 1 del menú principal).

STATE HEARING DECISION CONTINUATION

Si usted quiere información sobre servicios legales gratuitos pero no sabe el número de su oficina local de servicios legales, usted puede llamar al Ohio State Legal Services Association, gratuitamente, al 1-800-589-5888, para el número local.

Appendix

AGENCY EXHIBITS:

- A. Appeal Summary and supporting documents (135 p)

APPELLANT EXHIBITS:

- 1. State Hearing Request (1 p)
- 2. Statement (1 p)
- 3. Medical Records (31 p)