

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

ADMINISTRATIVE APPEAL SECTION

IN RE APPEAL OF:

DOCKET NO.	2006-AA-0208
APPEAL NO(S).	1259448 / MED
AG NO. HEARING REQUEST DATE:	11/28/2005
HEARING DECISION DATE:	02/16/2006 / SEK
APPEAL REQUEST DATE:	02/27/2006
AGENCY:	Cuyahoga CDJFS

Administrative Appeal Decision

This appeal pertains to Medicaid co-payment rules that became effective in January, 2006, and which may affect the Appellant at some point. The hearing officer overruled his appeal, finding that this is a statewide policy change applying to all Medicaid recipients who access the affected services. In his request for administrative appeal the Appellant indicates that he cannot afford the new charges.

Federal law authorizes states to require certain recipients to share some of the costs of Medicaid by imposing co-payments, or similar cost sharing charges¹. Ohio elected to implement co-payments for certain Medicaid benefits beginning in January 2006. Ohio Admin. Code 5101:3-1-09 states:

Beginning on and after January 1, 2006, the Ohio department of job and family services (ODJFS) shall institute a co-payment program under medicaid. The co-payment program shall establish a co-payment requirement for only dental services, vision services, non-emergency emergency department services, and prescription drugs, other than generic drugs.

Under the rule, there are certain groups or services that are excluded from the co-payment requirement . They include:

- (1) Children;
- (2) Pregnant women;
- (3) Institutionalized consumers;
- (4) Emergency services;
- (5) Family planning services, and
- (6) Hospice services.

The Appellant meets none of the listed exceptions to the co-payment policy and will be subject to the new policy. He should be aware, though, that he cannot be denied services due to his inability to pay the co-payment. Ohio Admin. Code 5101:3-9-09(F) states:

Consumers who are unable to pay their co-payment may declare their inability to

¹ 42 CFR 447.50, et seq.

pay and obtain their medication without paying their cost sharing amount; they remain, however, liable for the co-payment. The provider may bill the consumer for the co-payment or may request payment for a prior uncollected co-payment, however, the consumer may not be denied subsequent services based on their failure to pay an outstanding co-payment except as described in paragraph (B)(5) of rule 5101:3-1-09 of the Administrative Code.

If it is the provider's routine business practice to refuse service to an individual who owes them an outstanding debt, the provider may consider an unpaid copayment an outstanding debt and refuse further service to the Medicaid recipient. The provider must notify the individual of their intent to refuse services.²

The Appellant should review the "Changes in Your Co-Payments under Medicaid and Disability Medical Assistance" notice that he received as this will explain the co-payment policy more fully.

DECISION

Accordingly, we hereby ORDER that the decision be AFFIRMED.



Robert J. Frankart
Administrative Appeal Officer

CONCUR:



Margaret Adams
Administrative Appeal Officer



Robert Mullinax, Attorney-at-Law
Chief Legal Counsel

DATE OF ISSUANCE March 8, 2006

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, Cuyahoga County Department of Job and Family Services
Hearings Supervisor, SEK, Bureau of State Hearings
Robyn Colby
Appellant

² Ohio Admin. Code 5101:3-1-09(B)(5)