

**OHIO DEPARTMENT OF JOB AND FAMILY SERVICES
BUREAU OF STATE HEARINGS**

In the matter of:

<u>Case Number:</u>	<u>County:</u>	
5002005436	TRUMBULL	
<u>Appeal:</u>	<u>Program:</u>	<u>Disposition:</u>
1323713	FS	OVERRULED
1323714	MED	SUSTAINED
Compliance Required		
Decision Date:	03/13/2007	
Request Date:	12/12/2006	
Hearing Officer:	WANDA WILSON	

State Hearing Decision

ISSUE SECTION

I (APPEAL 1323713 FOOD STAMP PROGRAM)

II (APPEAL 1323714 AGED, BLIND AND DISABLED MEDICAID (MEDICAID) PROGRAM)

The Appellant made application for Cash, Food and Medical assistance with the Trumbull County Department of Job and Family Services (CDJFS) on November 29, 2005 and alleged a disability. The CDJFS gathered and submitted medical evidence to the Ohio Department of Job and Family Services (ODJFS), Disability Determination Unit (DDU) for a determination of disability. DDU deferred the disability determination on April 29, 2006 requesting additional medical information. DDU determined on November 29, 2006 that the Appellant did not meet disability criteria because of insufficient medical evidence to determine severity or findings of a medically determinable impairment(s); therefore, the Appellant's impairment(s) are not severe and do not significantly limit his physical and/or mental ability to do basic work activities. Upon receipt of the DDU disability determination, the CDJFS generated notice mailed December 5, 2006 denying Medicaid because disability was not severe enough.

The Appellant requested a state hearing and county conference because he disagrees with the DDU and CDJFS action and believes a mistake is being made in his case.

The Appellant testified at hearing that he is not appealing any CDJFS action regarding his Food Stamp program benefits. Therefore, no further consideration will be given herein to Appeal 1323713.

After considering testimony and evidence provided at hearing and considering the policy applicable in the Appellant's appeal, the Hearing Officer concludes that medical documentation was not obtained from all medical providers and DDU had insufficient documentation to determine severity or findings of a medically determinable impairment. The Appellant identified a treating medical provider to whom no request for medical evidence was made persuading the

STATE HEARING DECISION CONTINUATION

Hearing Officer that all medical evidence was not gathered and submitted to DDU for the disability determination. The Hearing Officer concludes that the denial of Medicaid be remanded to the CDJFS and DDU for further review and appropriate action.

The Hearing Officer recommends that Appeal 1323713, Food Stamp Program, be overruled.

The Hearing Officer recommends that Appeal 1323714, Medicaid Program, be sustained with compliance.

PROCEDURAL MATTERS

Notice of denial and right to state hearing was mailed December 5, 2006. The Ohio Department of Job and Family Services (ODJFS), Bureau of State Hearings received the Appellant's request for state hearing and county conference on December 15, 2006. A county conference was not convened as set forth at Ohio Admin. Code § 5101:6-5-01(C) (2003). State hearing scheduling notice was mailed January 24, 2007 scheduling the state hearing for February 5, 2007. The state hearing was conducted by speaker phone on February 5, 2007. Information was received from DDU.

The Appellant represented himself at hearing. The CDJFS was represented at hearing by Mr. Joe Roscoe. DDU was not represented at hearing.

FINDINGS OF FACT

1. The Appellant, age forty-four, made application for Medicaid on November 28, 2005 alleging a disability related to gout and crippling arthritis.
2. The Appellant has a Supplemental Security Income (SSI) application under appeal.
3. The CDJFS gathered and submitted medical evidence to DDU for a determination of disability.
4. DDU deferred the disability determination on April 29, 2006 for additional medical evidence.
5. The CDJFS provided Exhibit L, letters to medical providers, to support a finding that the CDJFS attempted to obtain additional medical evidence identified on the DDU deferral; however, it is not determined what information was submitted.
6. The Hearing Officer is persuaded by Appellant's testimony that the CDJFS' attempt to gather additional medical evidence was not extended to all medical providers.
7. On November 29, 2006, DDU determined the Appellant did not meet the disability criteria because of insufficiency medical evidence to determine severity or findings of a medically determinable impairment(s).
8. The CDJFS denied the November 28, 2005 Medicaid application effective December 5, 2006 on the basis that his disability was not severe enough.

CONCLUSIONS OF POLICY

Policy

STATE HEARING DECISION CONTINUATION

Ohio Admin. Code § 5101:1-39-03 (2005) speaks to limiting physical factor which is the non-financial criterion for Medicaid and is met by age (sixty-five or over), blindness or disability. When disability is not obvious, the CDJFS is required to gather and submit medical to DDU for the determination of disability. When there is incomplete or insufficient information contained in the DDU packet to approve, deny or continue the disability or blindness claim, DDU will defer the disability determination for additional medical evidence.

The DDU disability determination is made in line with Social Security Administration (SSA) policy.

20 Code of Federal Regulations § 416.911 defines a disabling impairment as an impairment or combination of impairments which, of itself, is so severe that it meets or equals a set of criteria in the Listing of Impairments or which, when considered with age, education and work experience, would result in a finding of disability.

Analysis

The Appellant made application for Medicaid claiming a disability with crippling arthritis and gout. CDJFS gathered and submitted medical evidence to DDU for a disability determination; however, DDU deferred the disability determination for information from a cardiologist, current heart catheterization or stress test, rheumatologist, current progress report from cardiologist, “Phys Rehab”. The deferral comments please provide current clinical findings for allegations HTN, gout, arthritis and CAD.

The CDJFS provides Exhibit L, letters to Appellant’s family physician and three area hospitals enclosing DDU’s deferral and requesting the medical providers submit the requested information. It is not established what medical information, if any, was received and submitted to DDU.

At hearing, the Appellant testified that the CDJFS had not submitted a letter with DDU’s deferral to the doctor that treats him for gout. He testified that he has had gout, arthritis and high blood pressure for ten to fifteen years. He testified that there are days he cannot get a shoe on his foot. He testified that he walks with a cane.

The Hearing Officer is persuaded that there is a treating medical provider that was not afforded opportunity to provide medical information relevant to Appellant’s impairment of gout. It is not clear what additional medical evidence was received and submitted to DDU for determination of disability. The Hearing Officer is persuaded that the CDJFS will need to send a copy of DDU’s deferral to the medical provider and upon receipt of the information, submit the information to DDU for review and determination of disability.

HEARING OFFICER'S RECOMMENDATION

I (APPEAL 1323713 FOOD STAMP PROGRAM) Based on the record and Agency policy before me, I recommend that appeal 1323713 be overruled.

II (APPEAL 1323714 AGED, BLIND AND DISABLED MEDICAID (MEDICAID) PROGRAM) Based on the record and Agency policy before me, I recommend that appeal 1323714 be sustained and the CDJFS be required to submit a copy of DDU’s deferral to the

STATE HEARING DECISION CONTINUATION

medical provider and upon receipt of the information, submit the information to DDU for review and determination of disability. The CDJFS may use county administrative funds to pay for any specific tests needed to be conducted by the medical provider to ensure current medical information. DDU will need to review the submitted medical evidence and make the disability determination and notify the CDJFS of the disability determination. Based on the DDU disability determination, the CDJFS will determine Medicaid eligibility in the Appellant's case. The CDJFS will need to send the Appellant written notice of action taken as the result of this state hearing decision.

The Appellant retains the right to hearing if he disagrees with any eligibility determination by DDU or the CDJFS.

FINAL ADMINISTRATIVE DECISION AND ORDER

I (APPEAL 1323713 FOOD STAMP PROGRAM) Since I find that the Hearing Officer's recommendation is supported by policy and the evidence, I hereby adopt the recommendation. Thus, appeal 1323713 is overruled.

II (APPEAL 1323714 AGED, BLIND AND DISABLED MEDICAID (MEDICAID) PROGRAM) Since I find that the Hearing Officer's recommendation is supported by policy and the evidence, I hereby adopt the recommendation. Thus, appeal 1323714 is sustained. The CDJFS and DDU are required to comply with the Hearing Officer's recommendations. Ohio Admin. Code § 5101:6-7-03(B)(1)(a) (2003) requires compliance with this decision within fifteen calendar days from the date of this decision, but no later than ninety calendar days from the request date. Compliance shall be considered met on the date the CDJFS submits additional medical information to DDU. Compliance shall be promptly reported to ODJFS, Bureau of State Hearings, via JFS 04068 compliance form, with supporting documentation.

Hearing Authority

March 13, 2007

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 1-866-635-3748.

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.

STATE HEARING DECISION CONTINUATION

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).

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

DDU EXHIBITS

- A. Objective Medical Documentation, Eighty-Seven Pages
- B. DDU Deferral of Disability Determination dated April 29, 2006, One Page
- C. DDU Disability Determination Denying Disability dated November 29, 2006, One Page
- D. CDJFS Referrals to DDU dated March 8, 2006 and July 31, 2006, Two Pages
- E. Physician Certification of Medication Dependency dated January 11, 2006, One Page
- F. Social Summary Report for Disability Determination dated November 29, 2005, Two Pages
- G. ODJFS Basic Medical Form, Date of Last Exam November 14, 2005, Two Pages

CDJFS EXHIBITS

- H. CDJFS Appeal Summary dated January 30, 2007 and CDJFS Copy of Appellant's December 15, 2007 State Hearing and County Conference Request, Two Pages
- I. CRIS-E Screens dated January 30, 2007: Notice History, Notice History Detail, Case Profile As Of January 30, 2007, Individual Demographics and Running Record Comments, Twenty-Four Pages
- J. Application Summary for Supplemental Security Income, dated December 20, 2005, CMS Referral dated January 20, 2006, CDJFS Referral to DDU dated March 8, 2006, Social Summary Report for Disability Determination dated November 29, 2005, ODJFS Basic Medical Form, Date of Last Exam November 14, 2005, Medication Dependency Form dated January 11, 2006 and DDU Deferral dated April 29, 2006, DDU Disability Determination Denying Disability, Eleven Pages
- K. CDJFS Letter to Appellant dated May 8, 2006, One Page
- L. CDJFS Letters to Medical Providers dated June 26, 2006, Four Pages
- M. Inter-County Memo dated November 30, 2006, One Page
- N. CDJFS Letter to Appellant dated December 14, 2006, One Page
- O. Inter-County Memo dated December 15, 2006, One Page
- P. Pages 6, 7, 8, and 28, of Application Run December 2, 2005, Four Pages
- Q. Request for Cash, Food and Medical Assistance dated November 28, 2005, Four Pages

APPELLANT EXHIBIT

- 1. Appellant's State Hearing Request dated December 15, 2006 and Authorized Representative Form dated November 28, 2005, Three Pages