

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

ADMINISTRATIVE APPEAL DIVISION

**IN RE APPEAL OF:**

DOCKET NO.	2005-AA-0280
APPEAL NO(S).	1214289 / MED 1214290 / MED
AG No.	
HEARING REQUEST DATE:	02/04/2005
HEARING DECISION DATE:	03/04/2005 / TMD
APPEAL REQUEST DATE:	03/21/2005
<b>Miami</b> CDJFS	

Administrative Appeal Decision

The Appellant requests an administrative appeal of the state hearing decision issued on March 4, 2005. The state hearing decision overruled the Appellant's appeal, finding that the Miami County Department of Job and Family Services correctly denied the Appellant's Medicaid application for nursing home vendor payment because the Appellant failed to verify the couple's resources. Specifically, the state hearing officer found that the Appellant failed to verify the wife's savings account prior to the deadline established by the county. The Appellant sets forth no specific assignment of error so the case record will be reviewed for any error affecting the outcome of the state hearing.

The Appellant/Institutionalized spouse entered the nursing facility on 08/20/04. The Appellant applied for Medicaid on 10/01/04. The Community Spouse attended an interview at the Agency on 10/22/04 and the Agency requested verifications of the couple's resources. When no information had been received, the Agency sent an Application Follow-Up Letter on 11/15/04, indicating that the information must be provided by 11/29/04 and failure to provide the information may result in the denial of the application. On 11/29/04 the community spouse provided all the requested information except a 5th/3rd Bank savings account statement and complete information regarding a family partnership of which the Appellant is sole owner. The Appellant had provided a statement from an accounting firm that included a statement of assets and liabilities, statement of revenue and expenses and a statement of limited partnership value. The statement included this clause, "Management has elected to omit substantially all of the disclosures ordinarily included in financial statements prepared on the income tax basis of accounting. If the omitted disclosures were included in the financial statements, they might

influence the user's conclusions about the company's assets, liabilities, equity, revenues and expenses." Because of the inclusion of this clause, the Agency determined that the information provided was insufficient to determine the value of the partnership as a resource. The Agency denied the application on 12/20/04 for failure to provide verifications.

The Appellant appealed the denial. The state hearing officer overruled the appeal, finding that the Appellant did not provide the 5<sup>th</sup>/3rd savings account statement. The hearing officer did not rule on the sufficiency of the partnership information to establish the value of the partnership. At the hearing the community spouse testified that savings account information was not provided due to an oversight. The community spouse provided this bank statement at the state hearing.

Ohio Admin. Code 5101:1-38-01(E) provides that failure to verify in the application process shall result in a denial of medicaid. Failure occurs:

- (1) When the information/verification is not provided after the CDJFS has properly advised the AG what information/verification is needed to determine eligibility and provided no request for assistance in obtaining information/verification was received by the CDJFS; or
- (2) When the CDJFS is not given necessary information to assist in obtaining the verification needed to determine eligibility.

Ohio Admin. Code 5101:1-38-02, on the other hand provides that

- (a) An application for assistance must be denied if an AG refuses to cooperate in establishing eligibility. When the AG or authorized representative is aware of what verifications are required but refuses to provide either consent for the administrative agency to obtain the verifications or to provide the necessary verifications, the administrative agency must deny or terminate assistance because eligibility cannot be established.

In this case, it is clear that the Appellant did not provide the savings account statement, but was not refusing to provide the information.

The Agency, in order to determine eligibility, requested a great deal of information from the Community Spouse. The Community Spouse provided all the requested documentation except for verification of one bank account and the Community Spouse provided that information at the state hearing. Bearing in mind that, under Ohio Admin. Code 5101:1-38-02, verification is not an eligibility requirement, it is unreasonable to deny the Appellant's application based on the Community Spouse's oversight. The Community Spouse was attempting to provide the requested verifications. The failure to provide documentation of this bank account was an oversight, she

was not intentionally concealing information. The Agency's denial on this basis was incorrect. Additionally, the information regarding the value of the family partnership appears to be sufficient, however, if the Agency is not satisfied with the information provided, the Agency should request additional documentation, not deny the application.

**Decision**

Accordingly, we must ORDER that the state hearing decision be REVERSED. COMPLIANCE issue to the county to rescind the denial of Medicaid and to continue to process the Appellant's Medicaid application. The county 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 county 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.

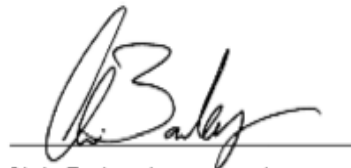


Margaret Adams  
Administrative Appeal Officer

CONCUR:



Robert J. Frankart  
Administrative Appeal Officer



Chris Barley, Attorney-at-Law  
Chief Administrative Hearing Officer

DATE OF ISSUANCE April 5, 2005

This Administrative Appeal Decision is the final administrative decision on your case from the Ohio Department of Job and Family Services. If you disagree with this decision, you may have the right to appeal to common pleas court pursuant to Section 5101.35 of the Ohio Revised Code. Your appeal must be filed within thirty days of the date this decision was issued to you. 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, Miami CDJFS  
Hearings Supervisor  
Bureau of State Hearings  
MED: Mary Mynatt  
Appellant