

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

In the matter of:

<u>Appeal:</u>	<u>Program:</u>	<u>Disposition:</u>
1271393	MED	SUSTAINED
1271394	DFA	SUSTAINED
Compliance Required		
Decision Date:	04/28/2006	
Request Date:	02/06/2006	
Hearing Officer:	DONALD C. LECK	

State Hearing Decision

ISSUE SECTION

**Appeal 1271394 Disability Financial Assistance
Appeal 1271393 Medicaid**

Is Lucas County Department of Job and Family Services' decision to terminate Appellant's Medicaid coverage and Disability Medical Assistance correct?

I do not support Lucas CDJFS decision to terminate the benefits and recommend appeals 1271394 and 1271393 should be sustained in Appellant's favor.

PROCEDURAL MATTERS

Appellant requested a state hearing about cash and medical assistance. A state hearing was scheduled for and held 04/26/06. Appellant and Lucas CDJFS representative K. Hibbett attended and were sworn in. Disability Determination Unit provided and appeal summary to Appellant and Toledo Regional Hearing Office prior to the proceedings.

FINDING OF FACT

1. Appellant filed was previously determined disabled through the CMS process, now know as DDU (Disability Determination Unit) based on a finding that his allegation of back paid is severe and prevented him from being able to work.
2. As result of the determination Appellant was approved for and got Medicaid coverage and Disability Financial Assistance.
3. Appellant's medical determination came up for review.
4. Lucas CDJFS collected medical information and referred it to DDU.
5. Appellant alleged depression is an impairment.

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6. The medical information referred to DDU also indicates Appellant has diagnosis of back pain, HIV positive, diabetes, hypertension, and hyperlipidemia.
7. DDU reviewed the deferred the case back to Lucas CDFJS for additional medical information about Appellant's mental status.
8. DDU did not get any additional medical information about Appellant's mental status.
9. DDU reviewed the case and determined there lacked medical information to support the allegation of depression is severe, and the information presented support the remaining allegations are not severe.

CONCLUSIONS OF POLICY

**Disability Financial Assistance
1233537 Medicaid**

Appellant was previously determined disabled by CMS, now known as DDU, based on their determination that Appellant's allegation of back pain is severe and prevented him from being able to work. Based on this determination Appellant was approved for and got Medicaid coverage and Disability Financial Assistance through Lucas CDJFS. Appellant's medical determination became due for review. Lucas CDFJS interviewed Appellant who alleged depression as his only impairment. Lucas CDJFS obtained medical information and referred it to DDU. DDU reviewed the deferred the case back to Lucas CDJFS for additional medical information about depression. No additional medical information was forthcoming. DDU reviewed the available medical information; identified back pain, HIV positive, diabetes, hypertension, and hyperlipidemia as well as the depression are alleged impairments. DDU determined there lacked medical information to support the allegation of depression is severe, and the information presented support the remaining allegations are not severe. Based on this DDU denied continued disability. From this Lucas CDJFS proposed to terminate Appellant's Medicaid and cash assistance.

In disagreement with the termination of his benefits Appellant timely requested a state hearing. Appellant's benefits continued pending the results of the hearing. Appellant said back pain has continued to be an impairment but does not take pain pills nor has he seen a physician about this since 2003. Appellant said depression is primary in his inability to function normally. Appellant acknowledge the remaining diagnoses do not prevent him from working but added ankle pain as an impairment that was not reviewed.

To be eligible for ABD (aged, blind, disabled) Medicaid an applicant must be aged, blind or disabled. To met the limiting physical factor for Medicaid for the disabled the applicant must be in receipt of SSI or RSDI, be determined presumptively disabled, or have an SSI claim pending and be determined disabled by DDU. In their review DDU must determine if the recipient's impairments are severe or continue to be severe, will last 12 months or result in death, and limit the person's ability to work. The county agency has the responsibility develop the medical record (Ohio Administrative Code 5101:1-39-03(1-1-05)). The requirements are the same for Disability

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Financial Assistance except the impairment must last nine months (Ohio Admin. Code § 5101:1-5-20 (9-30-03)).

Under the Medicaid and Disability Financial Assistance regulations Lucas CDJFS has the responsibility to develop the medical record to its fullest. There was no evidence presented to support that upon deferral Lucas CDJFS requested additional medical information about depression. I can only conclude that Lucas CDJFS did not develop the medical record to its fullest therefore I do not support the decision to terminate. Appellant also now claims back and ankle pain is an impairment. Lucas CDFJS will also need to develop the medical record to include these.

HEARING OFFICER'S RECOMMENDATIONS

Based on the record before me I recommend appeals 1271394 and 1271393 should be sustained with compliance.

Lucas CDJFS is directed to void the denial, continue Medicaid and Disability Financial Assistance, further develop the medical record and continue the DDU process. Compliance will be met once the complete information has been sent to DDU. Information compliance shall be included on the ODHS 4068 – State Hearing Compliance Form

FINAL ADMINISTRATIVE DECISION AND ORDER:

Finding the Hearing Officer's decision to be supported by the evidence, the recommendation above is adopted and appeals 1271394 and 1271393 should be sustained with compliance.

April 28, 2006

Notice to Appellant

This is the state hearing decision in your case. All papers and materials introduced at the hearing or otherwise filed make up the hearing record. The hearing record will be maintained by the Ohio Department of Job and Family Services. 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, Ohio 43218-2825 or FAX (614) 728-9574. Your request should state why you think the hearing decision is wrong. You can complete the appeal request form included with this decision. Your written request or appeal form 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 or your representative may request a free copy of the hearing record and recording of the hearing by calling the Bureau of State Hearings at 1-866-635-3748 (select option 1 from main menu). 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

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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.

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Appendix

Exhibits

Appellant

1. State Hearing Request

Agency

A. Appeal Summary (16 pages)

B. Social Summary, Medical Forms, Medical Information, deferral (71 pages)