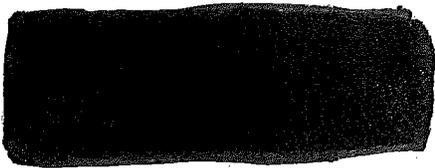


STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES
APPEALS OFFICE – Louis Pasteur Building
57 Howard Avenue
Cranston, RI 02920
(401) 462-2132 / Fax # (401) 462-0458
TDD # (401) 462-3363

Date: December 18, 2014

Docket # 14-989
Hearing Date: September 22, 2014



ADMINISTRATIVE HEARING DECISION

The Administrative Hearing that you requested has been decided in your favor. During the course of the proceeding, the following issue(s) and Agency policy reference(s) were the matters before the hearing:

**THE MEDICAID CODE OF ADMINISTRATIVE RULES (MCAR)
SECTION: 0300.25 Overview of MA Eligibility Requirements**

The facts of your case, the Agency policy, and the complete administrative decision made in this matter follow. Your rights to judicial review of this decision are found on the last page of this decision.

Copies of this decision have been sent to the following: You (the appellant in c/o your Attorney), and Agency representatives Kimberly Martinous, Deborah Castellano, and Thomas Conlon.

Present at the hearing were: Your Attorney, your son, and Agency representative Kimberly Martinous.

ISSUE: Is the appellant ineligible for R.I. Medical Assistance (MA) in January 2014 because she failed to provide sufficient verification of her resources, specifically her ownership interest in three Florida properties?

DHS POLICIES:

Please see the attached APPENDIX for pertinent excerpts from the Rhode Island Department of Human Services Policy Manual.

APPEAL RIGHTS:

Please see attached NOTICE OF APPELLATE RIGHTS at the end of this decision.

DISCUSSION OF THE EVIDENCE:**The Agency representative testified:**

- The appellant applied for MA in January 2014.
- After multiple requests for documentation, the application was denied in May 2014 after all requested documentation was not received.
- The application indicated that the appellant owns property in Florida.
- The Agency did a property appraisal search on the internet and has documentation from the tax assessor's web site showing that the appellant owns two lots of land in Port St. Lucie, Florida with another woman.
- On May 30, 2014, after the application was denied, the appellant's Attorney submitted documents relative to three properties in Florida, including property record cards, tax statements, and verification that the appellant has been paying the taxes on the properties..
- The Agency had requested the deeds to all of the appellant's properties and the deeds were not submitted.
- The Agency needs the Deeds to show current ownership and/or to determine if the other two owners had left their shares to the appellant upon their deaths.

The Appellant's son testified:

- In the process of applying for Medical Assistance, he learned that his mother has ownership in three property lots in Florida.
- His mother inherited the lots with two other women who he recently learned were her cousins.
- The three women had a common uncle and when the uncle passed away his three properties were inherited by these three of his nieces.
- He never knew the woman and/or their families. One passed away around seven years ago and the other passed away around two years ago.

- Each of the cousins had children living when they passed but he has no relationship with those individuals.
- The lots have been undeveloped since the uncle bought them in the early 1960s.
- He is unaware of any probate proceedings relative to his mother's two cousins.
- He provided documents relative to the properties that show the current value of the property.
- The appellant has been paying the taxes on the properties since the three inherited the properties.
- The tax bill he submitted is the most recent tax bill he could find at his parent's home.

The Appellant's Attorney presented:

- A deed is a record of a transaction that occurred in the past and is of no value in determining who owns the property today.
- They have stipulated that the appellant owns the Florida properties with two other individuals who are now deceased.
- The appellant only has a 1/3 interest in these properties which are undeveloped lots.
- A 2010 tax bill which they submitted shows the names of three women as owners.
- Only two names are showing on the St. Lucie property record cards because sometimes a computer system does not have enough room for all the names.
- The three women inherited the property as Tenants in Common. You cannot inherit property as Joint Tenants and there have been no subsequent deeds amongst the parties since then.
- The other two shares of the property will not pass to the appellant because she is not a close enough relative.
- Since no probate estates have been opened for the other two individuals, it is a legal impossibility for the appellant to convey the entire interest in the properties to anyone.

- It would cost more than the value of the appellant's 1/3 share of the properties to get the two estates probated in Florida, which is why neither of the other families have taken any action.
- He wants to cooperate with the Agency. The appellant would be willing to quit claim deed her share of the properties to the Agency and/or liquidate the properties if the Agency knew of a cost-effective way to do so.
- If the deeds are necessary, he will have to hire someone to obtain them in Florida and will need more time to do that.
- He requests that the record of hearing be held open to do a title search and/or provide documentation to verify that the appellant only owned a 1/3 share of each property at the time of her January 2014 MA application.

FINDINGS OF FACT:

- A Rhode Island Medical Assistance application was submitted on behalf of the appellant in January 2014.
- The Agency sent the appellant, in c/o of her Attorney, a notice dated May 19, 2014 informing her that her application for R.I. MA had been denied for the month of January 2014 because she had failed to provide verification.
- A timely appeal was submitted on behalf of the appellant, received by the Agency on June 18, 2014.
- Administrative Hearings scheduled for August 5, 2014, August 26, 2014, and September 9, 2014, were all rescheduled at the request of the appellant's Attorney.
- An Administrative Hearing was convened on September 22, 2014.
- At the request of the appellant's Attorney, the record of hearing was initially held open for six weeks, through the close of business on November 3, 2014, to allow for the submission of additional evidence.
- Incomplete and/or illegible documents were submitted by the appellant's Attorney during the held open period.
- The record of hearing was reopened, through the close of business on December 1, 2014, to allow the appellant's Attorney two more opportunities to submit complete and legible copies of the submitted documents.

- Additional copies were received and made part of the record of hearing.
- Copies of all additional evidence submitted post-hearing by the appellant's Attorney was provided to the Agency.
- On December 4, 2014, the Agency notified the Appeals Officer that the Agency had decided, upon review of the additional evidence, to withdraw the May 19, 2014 denial notice under appeal.
- The Appeals Officer notified the appellant's Attorney, per a letter dated December 12, 2014, that the Agency was withdrawing the notice under appeal.
- The appellant's Attorney verbally informed the Appeals Officer that the issue under appeal had not been resolved to his satisfaction and an Administrative Hearing Decision was thereby necessary.

CONCLUSION:

The issue to be decided is whether the appellant is ineligible for R.I. Medical Assistance (MA) in January 2014 because she failed to provide sufficient verification of her resources, specifically her ownership interest in three Florida properties.

Per the Medicaid rules in effect at the time of the appellant's January 2014 application, a Medicaid applicant must provide all information necessary to make an eligibility determination, including all information/documentation relative to resources that is necessary to determine if financial eligibility exists.

The Agency testified that the appellant claims to own three property lots in Florida with two other individuals who are deceased. The Agency argues that the appellant has failed to submit the deeds to the properties and/or sufficient verification of her current ownership interest in the properties.

The appellant's Attorney claims that at the time of her MA application in January 2014, the appellant owned a 1/3 share in each of three undeveloped property lots in Florida. The appellant's Attorney argued that the documents submitted, including property appraisal documents and tax bills, were sufficient verification of the ownership of the properties, the value of the properties, and the lack of marketability of the properties.

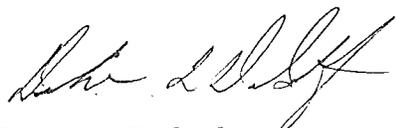
The evidence submitted at hearing included a 2010 tax bill for two of the properties which showed three owners and current property record cards showing only two owners. A 2010 tax bill and current property appraisal information on the third property showed that there were other owners in addition to the appellant but did not establish how many. In summary, the evidence presented at hearing failed to verify the appellant's ownership interest in the three properties.

Per the agreement of all parties, the record of hearing was held open to allow for the submission of additional evidence relative to the three properties. Additional evidence was submitted by the appellant's Attorney and upon review the Agency conceded that they had now received sufficient verification of the appellant's interest in the three Florida properties and would thereby withdraw the May 19, 2014 denial notice upon which the appellant's appeal had been filed. Despite such concession, the appellant's Attorney claims that the issue under appeal has not been satisfactorily resolved.

In conclusion, the Agency denied the appellant's January 2014 MA application for failure to provide verification of her resources, specifically her ownership interest in three Florida properties. Despite an initial failure to clearly document/verify the appellant's ownership interest in the three Florida properties, additional evidence submitted by the appellant's Attorney during the appeal process has been deemed by the Agency to be sufficient documentation/verification. As Administrative Hearings are de novo in nature, the Hearing Officer, when rendering the Administrative Hearing Decision, must consider all evidence submitted during the hearing process. As the failure to provide verification no longer exists, the appellant's request for relief is granted.

ACTION FOR THE AGENCY

The Agency is to rescind the May 19, 2014 notice of denial and determine the appellant's eligibility for Medicaid as of January 2014, the date of her Medicaid application, using the documentation/verification provided during the appeal process.



Debra L. DeStefano
Appeals Officer

APPENDIX

MEDICAID CODE OF ADMINISTRATIVE RULES (MCAR)

0300.25 Overview of Medicaid Eligibility Requirements

REV: October 2013

The eligibility requirements of the Medicaid Program are categorized as technical requirements, characteristic requirements, cooperation requirements, cost effectiveness and financial requirements.

0300.25.15 Cooperation Requirements

REV: October 2013

As a condition of eligibility, the Medicaid applicant/recipient must meet certain cooperation requirements, such as providing the information needed for an eligibility determination, taking reasonable action to make income or resources available for support, assigning of rights to medical support or other third party payments for medical care, or pursuing eligibility for other benefits. Failure to cooperate may result in a denial of eligibility or case closure.

0300.25.20 Financial Eligibility Requirements

REV:06/1994

Financial eligibility is based on the applicant/recipient's income and resources. Certain income and resources are COUNTABLE and thus included in the calculation of the individual's total income and resources to determine if financial eligibility exists. Other income and resources may be EXCLUDED from the calculation and not count toward the individual's allowable limit.

NOTICE OF APPELLATE RIGHTS

This Final Order constitutes a final order of the Department of Human Services pursuant to RI General Laws §42-35-12. Pursuant to RI General Laws §42-35-15, a final order may be appealed to the Superior Court sitting in and for the County of Providence within thirty (30) days of the mailing date of this decision. Such appeal, if taken, must be completed by filing a petition for review in Superior Court. The filing of the complaint does not itself stay enforcement of this order. The agency may grant, or the reviewing court may order, a stay upon the appropriate terms.