

**BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS
STATE OF GEORGIA**

S [REDACTED] S [REDACTED],
Petitioner,

v.

**DHS, DIVISION OF FAMILY AND
CHILDREN SERVICES,
Respondent.**

Docket No.: [REDACTED]
[REDACTED]-OSAH-DFCS-M-CU19-44-Fry

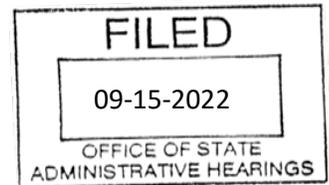
Agency Reference No.: [REDACTED]

Docket No.: [REDACTED]
[REDACTED]-OSAH-DFCS-TANF-44-Fry

Agency Reference No.: [REDACTED]

FINAL DECISION

I. Introduction



Petitioner S [REDACTED] S [REDACTED] seeks administrative review of Respondent’s denial of her applications for Temporary Assistance for Needy Families (“TANF”), and for Children Under 19 (“CU19”) benefits. Ms. S [REDACTED] appeared at the Dekalb Child Support Services office for her hearing on August 18, 2022. The TANF representative who usually appears, Mr. Sovath Sinn was unable to attend due to medical leave and no other TANF representative appeared. Additionally, one of the family Medicaid workers tested positive for COVID the day before and was unable to attend. As a result, a virtual administrative hearing was set for August 26, 2022. The parties presented sworn testimony and documents at that hearing held. Petitioner represented herself. A TANF Hearing Coordinator for the Department of Family and Children Services (“DFCS”), represented Respondent. For reasons set forth below, Respondent’s action as to Petitioner’s CU19 and TANF benefits is hereby **AFFIRMED IN PART, REVERSED IN PART AND REMANDED.**

II. Findings of Fact

1. Petitioner submitted a renewal application for benefits listed above in or around April 2022. The Department issued a Change Results letter in April 2022, terminating TANF and CU19 benefits. Respondent testified that the reason for the denial in the TANF case was failure to timely submit verification (Form 196) that was requested and that reason for the denial in the CU19 case was that since the child was receiving Supplemental Security Income (SSI) for a disability, the child was not eligible for CU19 benefits. Respondent's case worker (Mr. Sewanee) conducted an interview on April 19, 2022, provided a mandatory form 196 and asked Petitioner to provide verification by May 3, 2022. On May 5, 2022, Petitioner spoke with hearing specialist, Mr Sinn who advised her that her TANF case was open and pending verification because DFCS had not received the required documents. She testified that Mr. Sinn sent her the required form (Form 196). Petitioner said she would submit the document and testified that she did not understand why this particular document was missing since she submitted several documents together and the others were not missing. She could not identify the other documents that apparently had been received and the TANF Hearing Specialist who appeared for DFCS was unable to identify them in Petitioner's records. Petitioner signed and dated the verification on May 8, 2022 and mailed it to DFCS. It was received on May 16, 2022. In the interim, however, the case worker, Mr. Sewanee had denied the application on May 6, 2022. (Testimony of Petitioner and DFCS Hearing Specialist Maeisha Morales.)

2. Respondent testified that the TANF case was closed on May 6, 2022 because the verification was not received by the deadline of May 3, 2022. Respondent further noted that the call between Mr. Sinn and Petitioner did not occur until after the May 3, 2022 deadline. There was no evidence or testimony that Petitioner was given a deadline to submit the verification, or

that having spoken with Mr. Sinn, that it was due immediately, i.e., on that day or her application would be denied. After what appeared to be a disconnect when the Court asked the hearing specialist about the specific grounds for the termination of benefits, it became clear that the Change Results letter that was of record with the OSAH-1s for the two cases, was the incorrect letter. The Case Number of record at OSAH is [REDACTED] 10, whereas the correct case number was [REDACTED] 29. (Testimony of Petitioner and DFCS Hearing Specialist Maeisha Morales.)

3. On August 29, 2022, the Court issued an order directing the Respondent to supplement the record by September 1, 2022 with the correct Change Results letter and to provide a copy of Petitioner's application. That order was sent by email to the TANF hearing specialist (Maeisha.Morales@dhs.ga.gov) on August 29, 2022 at 12:50 PM by the Judge's assistant. During the hearing, the Court also requested the Respondent provide policy documentation for the denial of CU19 benefits based on the receipt of SSI disability payments. As of today, the Court has not received any of the supplemental information requested.

4. Respondent testified that Petitioner's granddaughter's CU19 benefits were terminated because the child (K.S.) was receiving SSI. When questioned by the Judge for the policy reference, the hearing specialist could not immediately provide it and as not above was asked to provide it after the hearing. The policy reference has not been provided. Although Respondent testified that the Change Results letter that is of record at OSAH for Petitioner's case number [REDACTED] 10 is the wrong reference document, the record is therefore devoid of any information concerning the termination of benefits other than was provided by testimony at the hearing. The Court notes for the record however, the Change Results letter for case number [REDACTED] 10 state in part that the reason for termination of TANF benefits was due to the child receiving SSI. Based on Section 1205 of the TANF Manual, Chart 1205.1, page 8, this would

appear to be wrong since comment states that the SSI recipient's income is not to be included in the calculation for TANF eligibility. Although it is not the applicable letter here, to the extent that issue surfaces in connection with Respondent's processing Petitioner's application for TANF benefits as ordered herein, the mere fact that K.S. is receiving SSI benefits would not be a proper basis to deny TANF benefits.

5. The Court could find nothing the section of the Medicaid Manual that addresses CU19 benefits that says a child who receives SSI benefits is ineligible. However, elsewhere on DCH's website, in the Manual and in an ABD application processing reference listed in the footnote¹, it appears that a recipient of SSI based on a disability is automatically eligible for ABD Medicaid and should be processed for such.

III. Conclusions of Law

Based upon the above findings of fact, the Court makes the following conclusions of law:

1. Since the present case involves a termination of benefits, Respondent bears the burdens of persuasion and going forward with the evidence. OSAH Rule 616-1-2-.07(1)(d). The standard of proof is a preponderance of the evidence standard. OSAH Rule 616-1-2-.21(4).

2. The TANF Program is governed by 42 U.S.C. §§ 601-619; 45 C.F.R. Parts 201-287; O.C.G.A. §§ 49-4-1 to -21 and 49-4-180 to -193; Ga. Comp. R. & Regs. 290-2-28-.01 to -.19; and the Respondent's TANF Program Manual (Volume I, MAN 3390). Section 1105 of the

¹ Step 2. Does AR have prima facie evidence of disability?

- RSDI Disability (Note, between 62 and 65, early retirement is possible, be sure the benefit is for disability rather than early retirement)
 - Railroad Disability
 - Receipt of Medicare (except numbers ending in "T")
 - SDX for SSI Approval
- YES - ABD criteria met.

TANF Manual concerns Application Processing. Section 1710 of the TANF Manual concerns Reviews. Section 1835 of the TANF Manual concerns Failure to Participate.

3. Section 1105 of the TANF Manual notes that for either a paper application or one submitted through the customer portal, Form 196, the TANF Family Service Plan-Personal Responsibility Plan (Form 196-PRP) must be signed and submitted. TANT Manual Section 1105-6 and 1105-7. The TANF Manual contains strict guidance regarding timelines for a missed interview appointment. For example, for an initial missed appointment, “The application must be held for 10 days following the scheduled appointment to allow the applicant ample time to contact the agency. The application is denied on the first workday following the 10th day if no contact is made.” TANF Manual 1105-3. Section 1105-8 of the TANF Manual specifies that the Standard of Promptness for a TANF application is 45 days. Section 1105-8 further provides:

The first day of the 45-day count is the day on which the applicant files a signed application in the county department or the day on which a signed application is received in the mail.

Completion of an application is defined as either the issuance of cash assistance or the issuance of a denial notice.

All interviews must be completed, and deadlines given to facilitate completion of the application within the SOP.

TANF Manual Section 1105-8

Notably, there is nothing that specifies a strict time limit for responding to a verification request unlike the timing requirements regarding the interviews. While deadlines are to be “given to facilitate completion of the application within the SOP” the Manual is silent as to what those time frames should be for any action items other than the interviews. In fact, regarding verifications, the TANF Manual provides

The applicant must be given sufficient time to obtain the verification. While there is no minimum or maximum amount of time required in which verification is to be provided, it must be reasonable. The applicant may be given sufficient time, within

the standard of promptness, to provide information if the applicant requests that more time be given.

TANF Manual 1105-12.

There was no testimony provided that May 6, 2022, was anywhere close to the 45-day SOP deadline. Moreover, the fact that Mr. Sinn was in contact with the Petitioner that her application was pending verification and sent her the missing form before the case was closed, belies the fact that the deadline was a hard stop. If it were set in stone, the record of the exchange would have reflected him saying she missed the deadline and there was nothing to do to salvage the application. That is not what happened, however. Instead that exchange indicates that Petitioner having been made aware of the missing document was requesting additional time to submit it which she did. There appears to be no record of a new deadline to submit the verification. Considering the exchange on May 5, 2022, and Petitioner's submission of the Form 196 in response to Mr. Sinn's request, which was made before the case was closed and within the SOP deadline, Respondent's improperly closed Petitioner's case on May 6, 2022. That decision is **HEREBY REVERSED**. This case is **HEREBY REMANDED**, and Respondent is **ORDERED** to re-open Petitioner's TANF case and process it for benefits based on a timely filing of the application and associated documents.

4. The Medicaid program was created in 1965 “for the purpose of providing federal financial assistance to States that choose to reimburse certain costs of medical treatment for needy persons.” *Miller v. Wladyslaw Estate*, 547 F.3d 273, 277 (5th Cir. 2008) (quoting *Harris v. McRae*, 448 U.S. 397, 201 (1980)); see Social Security Act, 42 U.S.C § 1396 et seq. Although participation in the program is voluntary, a state that chooses to participate must comply with the program requirements found in federal law. *Ga. Dep't of Behavioral Health & Developmental Disabilities*

v. United Cerebral Palsy, 298 Ga. 779, 780 (2016) (citing *Frew v. Hawkins*, 540 U.S. 431, 433 (2004)). Georgia has chosen to participate in the Medicaid program. *Id.*

5. In Georgia, Medicaid benefits are provided through a variety of classes of assistance, each with its own specific criteria. Georgia Department of Human Services Medicaid Manual (Volume II, MAN 3480) (“Medicaid Manual”) § 2101 *et seq.* The ABDMN class of assistance is outlined in Medicaid Manual § 2150 and Children Under 19 (CU19) class of assistance is outlined in Medicaid Manual § 2150.

6. The Department of Community Health’s (DCH) website provides the following information:

Medicaid is a medical assistance program that helps many people who can't afford medical care pay for some or all of their medical bills. Medicaid is administered by the Georgia Department of Community Health (DCH) and pays medical bills with State and Federal tax money.

<https://dch.georgia.gov/medicaid-abcs>

DCH’s website further states that

If you receive Supplemental Security Income (SSI) from the Social Security Administration, you are *automatically eligible for Medicaid* and often receive Medicare as well. If you receive both Medicaid and Medicare, Medicaid will pay your Medicare premium, co-payments and deductibles.

Id. (emphasis added).

7. Finally, the DCH website directs an SSI recipient wanting “To apply for Medicaid, [to] contact DFCS in your county.” *Id.*

8. Based on the evidence in the record and the information from the Department of Community Health, the Court concludes that Petitioner should automatically be receiving ABD Medicaid, but since apparently, she is not, she should apply for ABD Medicaid for K.S. through DFCS. If there is an issue with that application, Petitioner will have the opportunity to request a fair hearing to review Respondent’s determination of ABD benefits at that time.

IV. Decision

IT IS HEREBY ORDERED THAT Respondent's termination of Petitioner's application for TANF benefits is **REVERSED and REMANDED**. Respondent is **HEREBY ORDERED** to reopen Petitioner's case and promptly process the application for a determination of benefits. Respondent's actions as to K.S.'s CU19 benefits is **AFFIRMED**.

SO ORDERED, this 15th day of September 2022.



John Fry
Administrative Law Judge

