

macular hole of left eye.” (Testimony of Petitioner; Petitioner’s Exhibits 1 and 2)

4.

Dr. Eichenbaum’s impressions of Petitioner’s eyesight from the follow-up visits are as follows:

<u>Appointment Date</u>	<u>Right Eye Uncorrected VA</u>	<u>Left Eye Uncorrected VA¹</u> <u>Left Eye Pinhole</u>
September 13, 2021	LP ² with some projection	20/150-1 20/100 w/effort
September 23, 2021	HM peripherally	20/400
October 14, 2021	LP	20/200-1 20/200+1
October 22, 2021	20/LP	20/800 (lines); sees Hands ³
October 28, 2021	LP	20/200
March 1, 2022	LP	20/500 20/200+1

(Testimony of Petitioner; Petitioner’s Exhibits 1 and 2)

5.

Petitioner is blind in her right eye, and she continues to have difficulty with her left eye. As noted above, Petitioner’s eyesight in her left eye has worsened from October 28, 2021, to March 1, 2022. Petitioner received glasses in April 2022 to assist her, but she feels her eyesight in her left eye has worsened since then. The evidence in the record only addresses Petitioner’s uncorrected vision. There is no evidence in the record regarding Petitioner’s corrected vision. (Testimony of Petitioner; Petitioner’s Exhibits 1 and 2)

6.

Prior to her August 2021 injury, Petitioner worked at Walmart. Since sustaining the injury, she has been unable to work, but she did receive \$841 per month in income from short-term disability insurance. Petitioner’s last short-term disability insurance payment was for \$79.38 on February 17, 2022. Petitioner applied for long-term disability but was ineligible for such benefits. Thus, since

¹ VA – visual acuity

² LP – light perception only

February 2022 Petitioner has had zero income and no health insurance. (Testimony of Petitioner; Testimony of Respondent's Representative)

7.

In November 2021 Petitioner was hospitalized because of a seizure. She was subsequently transferred from the hospital to Pruitt Healthcare Blue Ridge, a nursing home, on December 6, 2021, due to a variety of medical conditions including a primary diagnosis admission of "posterior reversible encephalopathy syndrome." At the time of the hearing, Petitioner continued to reside at the nursing home. (Testimony of Petitioner; Petitioner's Exhibit 2)

8.

On December 10, 2021, Petitioner applied for Medicaid. Respondent denied her application that same day stating, "You or a member(s) of your household are not eligible for medical assistance in Georgia. We are referring ineligible individuals to the federal facilitated marketplace for health insurance coverage." Petitioner applied for Medicaid again on March 31, 2022. Again, Respondent denied Petitioner's application that same day citing the same reason as provided in the December 10, 2021 denial. (Petitioner's Exhibits 3 and 4)

9.

On April 11, 2022, Pruitt Healthcare Blue Ridge issued a Notice of Involuntary Discharge based on non-payment of allowable fees. Petitioner has been unable to pay for her stay at the nursing home because she has no income and no resources of significant value, and her Medicaid applications have been denied. (Testimony of Petitioner; Petitioner's Exhibit 7)

10.

On April 26, 2022, the nursing home applied for Nursing Home Medicaid on Petitioner's behalf. Respondent denied that application on June 13, 2022, stating the reason for denial being that since Petitioner has no income Respondent must deny Petitioner's Medicaid application and refer her to the Social Security Administration (SSA) to apply for Supplemental Security Income (SSI), which if approved, would confer Medicaid benefits.⁴ (Testimony of Respondent's Representative; Petitioner's Exhibit 5).

³ Appointment took place after repair of macular hole on 10/21/2021 in left eye. (Petitioner's Exhibit 1)

⁴ 42 C.F.R. 435.4 and 435.120.

11.

In November 2021, at the time of her hospitalization, Citizens Disability applied for Retirement, Survivor's, Disability Insurance (RSDI) benefits through the SSA on Petitioner's behalf. For unknown reasons an SSI application was not submitted at the same time. Petitioner's RSDI application has been denied. She appealed the denial on July 19, 2022, and that appeal remains pending. If her RSDI application is ultimately approved, Petitioner anticipates being approved to receive at least \$1,300 per month in income. (Testimony of Petitioner; Petitioner's Exhibit 6)

II. Conclusions of Law

1.

To be eligible for Aged/Blind/Disabled (ABD) Medicaid, an applicant must be determined to be aged, blind, or disabled. Medicaid Manual § 2205-1.

2.

For Medicaid purposes, "aged" is defined as 65 years or older, which Petitioner will not be until April 2023; "disability" is defined as an inability to engage in any substantial gainful activity by reason of a medically determinable physical or mental impairment(s), which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months;" and "blind" means the person has a "central visual acuity of 20/200 or less in the better eye with the use of a correcting lens, or a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees." Medicaid Manual §§ 2205-1 and Appendix E-2, E-6; 42 § U.S.C. 416(i)(1).

3.

Respondent's policy provides that the eligibility categories of blind and disability must be verified by either prima facie evidence, SSA's Disability Adjudication Section (DAS) or Respondent's State Medicaid Eligibility Unit (SMEU). Prima facie evidence includes the receipt of RSDI disability benefits, Railroad Retirement disability benefits, Medicare, or SSI benefits. No prima facie evidence was presented in this case. Accordingly, Petitioner's eligibility under the categories of blind or disability must be verified by DAS or SMEU. Medicaid Manual § 2205.

4.

Under Respondent's policy, DAS verifies disability in situations where an individual appears to be financially eligible for SSI, except in certain specified situations that are inapplicable here.⁵ Medicaid Manual §§ 2060-8, 2101-3 and 2205-2. Respondent's policy specifically provides that DFCS must refer a Medicaid applicant to SSA if his/her Federal Countable Income is less than the appropriate Federal Benefit Rate (i.e. the applicant appears to be financially eligible for SSI), and that Medicaid benefits are to be denied pending the outcome of the SSI application. Medicaid Manual §§ 2060-8; 2101-3, 2205-5; 2210; and Appendix A1-1 (2022). This is due, in part, to Respondent's policy that Medicaid applicants "must apply for and accept all other monetary benefits, payments or allotments to which s/he . . . may be entitled in order to be eligible for Medicaid." Medicaid Manual § 2210-1. Petitioner appears to be financially eligible for SSI because she has no income as of February 2022. This is true even though she believes she may receive more than \$1,300 per month if approved for RSDI, which simply means that if determined to be disabled by SSA it is possible she will receive RSDI monthly benefits that could render her financially ineligible for SSI. It is simply too speculative to conclude that Petitioner is financially ineligible for SSI based on a belief that if she is determined to be disabled by SSA her RSDI benefits may exceed the income limit to receive SSI. Accordingly, under Respondent's policy, Respondent was authorized to deny Petitioner's Medicaid application and refer her to the SSA to apply for SSI benefits based on her appearing to be financially eligible for SSI because she has no income at this time.

5.

The alternative to DAS making a disability determination is to have the State Medicaid Eligibility Unit (SMEU) make a disability determination. Respondent requests a SMEU determination when there is no prima facie evidence of blindness or disability, there is no pending SSI application, or if DAS has not rendered a decision for prior months. Medicaid Manual, § 2205-3. Additionally, if SSA has denied a disability application and the individual alleges a worsening of her condition, DFCS can conduct a review of the applicant's disability by following SMEU procedures if the

⁵ A potentially eligible SSI applicant may not elect to receive ABD Medicaid instead of SSI. Medicaid Manual § 2101-3.

individual is now financially ineligible for SSI. Medicaid Manual § 2205-7; *See also* 42 C.F.R. § 435.541(c)(4)(iii)(B). In this matter, Petitioner alleges a worsening of her condition since denial of her disability application with SSA. However, she appears to remain financially eligible for SSI based on her zero income.


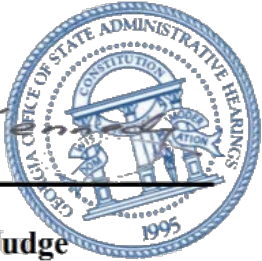
6.

The Court concludes there is no legal basis for Respondent to process or approve Petitioner's Medicaid application currently, or to refer her to SMEU for a disability determination. Rather, in accordance with Respondent's policy as set forth above, Respondent was authorized to deny Petitioner's Medicaid application and refer her to SSA. Medicaid Manual §§ 2060-8, 2101-3 and 2205-2.⁶ Additionally, Respondent is authorized to not refer her application to SMEU for a disability determination currently despite the worsening of her condition because she appears to remain financially eligible for SSI. *See* 42 C.F.R. § 435.541(c)(4)(iii).

III. Decision

Based on the foregoing Findings of Fact and Conclusions of Law, the Court **HEREBY AFFIRMS** Respondent's denial of Petitioner's Medicaid application.

This 26th day of September 2022.



Ana B. Kennedy
Administrative Law Judge

⁶ The Code of Federal Regulations provide that the Medicaid agency must make a determination of disability if an individual applies for Medicaid as a non-cash beneficiary and has not applied to SSA for SSI cash benefits, regardless of whether the State has a section 1634 agreement with SSA. 42 C.F.R. § 435.541(c)(1). Thus, it seems that Respondent should refer an applicant to SMEU if the individual applies for Medicaid as a non-cash beneficiary and has not applied for SSI rather than denying the application and making a referral to SSA as Respondent's policy provides for. However, the Court does not address this argument further herein to determine if Petitioner applied for Medicaid as a "non-cash beneficiary" (a term the undersigned has been unable to find defined anywhere) and whether she should have been referred to SMEU because in this matter the SSA has made a disability determination, which is binding on Respondent. 42 C.F.R. § 435.541(b)(i). Furthermore, given that it has been less than 12 months after the most recent SSA determination denying disability and Petitioner appears to meet the non-disability requirements for SSI her case cannot be referred to SMEU despite the assertion that her condition has worsened. 42 C.F.R. § 435.541(c)(4)(iii).