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ELDER LAW MINUTE

What do you do if your application for Medicaid is denied? The first step is to find out why it was denied. Typically, the denial notice does not provide enough specificity to determine exactly what the issue is. So, call your caseworker at the Department of Family and Children Services (DFCS). If that does not work, write the caseworker and ask for the specific reason for the denial citing MEDICAID MANUAL § 2060-7 which says that generic denial reasons may not be used as the sole reason for the denial.

If after you determine the precise reason for the denial you agree with the caseworker, your next step is to clean up your case and reapply when you are sure that you are eligible. There is no limit on the number of times that you can apply for benefits.

What if after determining the reason for the denial, you think the caseworker is wrong. Either she misunderstood the facts or she misapplied policy with regard to your case. In that case, your next move is to request a Fair Hearing before an Administrative Law Judge from the Office of State Administrative Hearings (OSAH). The request can be submitted either to the county DFCS office or to the Department of Human Resources Legal Service Office. You should be contacted by OSAH within a few weeks concerning the hearing which will generally take place in the county where the case is pending.

I had a Gwinnett County case in January concerning the care-givers exception to the transfer penalty. I have two cases in June also arising out of Gwinnett County. One concerns the voiding of a transfer penalty when the transferred asset is transferred back. The other concerns the standard of promptness which is 45 days in most nursing home cases. The case at bar has been going on almost a year.

If you have any applications which have been denied, I would be delighted to speak to you about taking the next step.

Member of the National Academy of Elder Law Attorneys