

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

ALEXANDER DEARMAS,

Petitioner,

vs.

Case No. 19-2278

AGENCY FOR HEALTH CARE  
ADMINISTRATION,

Respondent.

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RECOMMENDED ORDER

This case came before Administrative Law Judge Darren A. Schwartz of the Division of Administrative Hearings ("DOAH") for final hearing by video teleconference on July 26, 2019, at sites in Tallahassee and Miami, Florida.

APPEARANCES

For Petitioner: Alexander DeArmas, pro se  
8874 West 35th Lane  
Hialeah, Florida 33018

For Respondent: Bradley Stephen Butler, Esquire  
Ryan McNeill, Esquire  
Agency for Health Care Administration  
2727 Mahan Drive, Mail Stop 3  
Tallahassee, Florida 32308

STATEMENT OF THE ISSUE

Whether Petitioner, Alexander DeArmas ("Petitioner") can establish, by a preponderance of the evidence, that at least three years have elapsed since he has been lawfully released

from confinement, supervision, or nonmonetary condition imposed by the court for the disqualifying felonies pursuant to section 435.07(a)(1)1., Florida Statutes, such that he is eligible for an exemption from disqualification.

PRELIMINARY STATEMENT

In a letter dated December 28, 2018, Respondent, Agency for Health Care Administration ("AHCA"), notified Petitioner that his request for an exemption from disqualification was denied. Dissatisfied with the decision, Petitioner timely requested a formal administrative hearing. Subsequently, on April 30, 2019, AHCA referred this matter to DOAH to assign an Administrative Law Judge to conduct the final hearing. On May 9, 2019, the undersigned set the final hearing for July 26, 2019.

The final hearing was held on July 26, 2019, with both parties present. At the hearing, Petitioner testified on his own behalf. Petitioner did not offer any exhibits into evidence. AHCA presented the testimony of Vanessa Risch. AHCA's Exhibits 1 through 11C were received in evidence upon stipulation of the parties.

The one-volume final hearing Transcript was filed on August 16, 2019. AHCA timely submitted a proposed recommended order, which was considered in the preparation of this Recommended Order. Petitioner did not submit a proposed

recommended order. Unless otherwise indicated, references to the Florida Statutes are to the 2019 version.

FINDINGS OF FACT

1. Petitioner is a 38-year-old male seeking to qualify, pursuant to section 435.07, to participate in the Medicaid program.

2. AHCA is the state agency responsible for administration of the Medicaid program in Florida.

3. On February 27, 2014, Petitioner pled guilty to the two disqualifying felony drug offenses. Petitioner was adjudicated guilty and he was sentenced to five years of drug offender probation.

4. On April 15, 2014, the court entered an Order that the "remainder of the defendant's probation shall be converted from drug offender probation to regular probation."

5. On February 23, 2017, Petitioner was released early from his probation.

6. On October 4, 2018, Petitioner submitted an application for exemption from disqualification to AHCA pursuant to section 435.07.

7. In a letter dated December 28, 2018, AHCA notified Petitioner that his request for an exemption from disqualification was denied. AHCA determined Petitioner is ineligible for an exemption because section 435.07 requires that

three years elapse between the date Petitioner was lawfully released from confinement, supervision, or nonmonetary condition imposed by the court for the disqualifying felonies and the date of application for the exemption.

8. Petitioner is ineligible for an exemption because three years have not elapsed since he was released from probation on February 23, 2017.

CONCLUSIONS OF LAW

9. DOAH has jurisdiction over the parties and subject matter of this proceeding pursuant to sections 120.569, 120.57(1), and 435.07, Florida Statutes.

10. For the purposes of screening to participate in the Medicaid program, individuals, such as Petitioner, who are seeking to be a Medicaid provider, are required to undergo background screening. § 435.04, Fla. Stat.

11. Pursuant to section 435.07(1), the agency head may grant to any person otherwise disqualified from being a Medicaid provider an exemption from disqualification for:

1. Felonies for which at least 3 years have elapsed since the applicant for the exemption has completed or been lawfully released from confinement, supervision, or nonmonetary condition imposed by the court for the disqualifying felony; . . . .

12. As detailed above, Petitioner is ineligible for an exemption because three years have not elapsed since he was released from probation.

RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is RECOMMENDED that the Agency for Health Care Administration enter a final order denying Petitioner's request for an exemption from disqualification as a Medicaid provider.

DONE AND ENTERED this 5th day of September, 2019, in Tallahassee, Leon County, Florida.



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DARREN A. SCHWARTZ  
Administrative Law Judge  
Division of Administrative Hearings  
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Filed with the Clerk of the  
Division of Administrative Hearings  
this 5th day of September, 2019.

COPIES FURNISHED:

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NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the Final Order in this case.