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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION
Office of the Administrative Law Judge
801 Market Street, 4th Floor, Suite 4063
Philadelphia, PA 19107

BEFORE: ALJ ANGELA T. JONES

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DEC 23 2016

Mindy Jaye Zied, and)	F-2015-2500342	PA PUBLIC UTILITY COMMISSION
Binnie A. Zied, <i>Complainants</i>)		SECRETARY'S BUREAU
v.)	<u>related case:</u>	
PECO Energy Company,)	(P-2015-2520474 - April 21, 2016)	
(an Exelon Corp.), <i>Respondents</i>)		
_____)		

**COMPLAINANTS RENEWED MOTION FOR A DISABILITY
ACCOMMODATION REQUEST OR CERTIFICATION TO THE
COMMONWEALTH COURT OF PENNSYLVANIA FOR
RESOLUTION OF THIS QUESTION**

Mindy Jaye Zied
Binnie A. Zied
1948 Kentwood Street
Philadelphia, PA 19116
(717) 856-9607
mindyjziedcampbell@icloud.com

DATE: December 23, 2016

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DEC 23 2016

INTRODUCTIONPA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

This is a renewed disability accommodation request for the Complainants' in this proceeding, Binnie A. Zied who is a 98 year old woman who has two hearing aids and cannot communicate effectively telephonically, and Mindy Jaye Zied, the homeowner of 1948 Kentwood Street, Philadelphia, PA 19116, who has been permanently disabled since 1972/73 with conditions that include but are not limited to bipolar disorder, communication problems associated with that disorder, and paranoid disorder.

THE NOVEMBER 17, 2016 ORDER IS INADEQUATE TO MEET THE NEEDS OF BOTH COMPLAINANTS

On November 17, 2016, an ORDER was issued by the Office of the OALJ at 801 Market Street, Philadelphia, Pennsylvania, Administrative Law Judge, Angela T. Jones. This particular ORDER (here at **Exhibit #1**) requests once again, contrary to the previous requests by the Complainants' for the Complainants to telephone this office at 10:00 a.m. on January 11, 2017 to participate in a telephone hearing.

The Complainants' have continually informed this office that both Complainants' have disabilities which include communication difficulties, and have requested that the issues which are presently being disputed against P.E.C.O. be resolved by the written submissions that have been supplied pertaining to these particular issues.

This Office has failed to comply with the requests made by the Complainants', and have not accommodated their impairments and disabilities.

CERTIFICATION TO THE COMMONWEALTH COURT OF PA

Due to the fact that this Office is having a problem with understanding the disabilities of the Complainants', and the law, rules and regulations which comprise of both the American

with Disabilities Act of 1990 and the Rehabilitation Act of 1973, et. seq. as amended, it is requested that should this accommodation request be denied, that this office refer this question to the Commonwealth Court of Pennsylvania for review and decision pertaining to their disability accommodation request.

It is a strong belief of the Complainants that as cited before, all of the documentation which has already been submitted supports the Complainants request for relief, and that the documentation adequately sets forth the facts that show that the Complainants deserve relief for the violations which took place by P.E.C.O.

The Question to be Certified is as follows:

Whether in the Commonwealth of Pennsylvania in order to be in compliance with the American with Disabilities Act of 1990, et. seq., (as amended) - 42 U.S.C. § 12132, an in-person or telephonic hearing can be waived by a self-represented individual and/or individuals who are impaired by permanent non-physical disability(s), to include but are not limited to communication difficulties, and/or by a 98 year old individual who not only suffers from health problems, but cannot hear via telephone, which would allow the merits of the complaint to be heard based solely on the paperwork submitted, as an alternative form of communication/accommodation request to either the disability(s) in question and/or the age and/or physical health of that elderly self-represented complainant(s).

Prior Disability Accommodation Request(s) have been made to this Office By The Complainants

On October 7, 2015, the Complainants' served this office and PECO's attorney with a Brief and a request for that brief to be heard in lieu of a hearing. On the same day, (as depicted in the April 21, 2016 PUC decision, (here at Exhibit #2) (pages 3-4), the Complainants' "requested reasonable accommodations be made and that the ALJ decide the proceeding based on written submittals or a written brief instead of an in person or telephonic hearing."

May 5, 2016

.."Based upon Mindy Zied's disability(s), and prior communications with PECO and Counsel, it is believed that the first (4) criteria would not and could not work. The 5th

criteria which includes the option of State Court, based on a prior experience of Ms. Zied and her inability to understand the complex procedures required by the State Court, that option would also have to be precluded by the Complainant's. Due to the fact that there is no present avenue for Ms. Zied to proceed in the Federal Court at the moment, until the Third Circuit Court of Appeals issues decisions in the pending appeals of USCA 3rd Circuit Case....., that, too is not an avenue of relief that the Complainants are able to pursue.

Based upon the belief that the August 24, 2015 Formal Complaint; the September, October, (October 7, 2015 containing 13 Exhibits equalling 267 pages) & November submissions (letters and motions) by both Mindy and Binnie Zied support their side of the argument, and support the allegations against PECO, the Complainants' choose to proceed on the paperwork, letters, affidavits, emails, and (continued)additional evidence already submitted to this tribunal on the 6th criteria offered by the PUC, (written testimony and evidence submitted) based upon the health and disabilities of both Complainants.

Should additional paperwork be required as to the continuing processing of these claims, it would be of great assistance to the Complainants' for the OALJ's office to either elaborate and set forth any further instructions and/or rules and/or codes where said instructions are located to ensure that the Complainants will be capable of complying with as to the rules and regulations that they themselves are unfamiliar with, unskilled in law and procedures of the Public Utility Commission.".....

On April 21, 2016, the Commission raised the following question posed by the Complainants based upon the Complainant's disability(s):

"Whether in the Commonwealth of Pennsylvania in order to be in compliance with the American with Disabilities Act of 1990, [42 U.S.C. §§ 12101-12213, specifically] §12132, an in-person hearing can be waived by a self-represented individual and/or individuals who are impaired by permanent non-physical disabilities, which include but are not limited to, communication difficulties, and/or by a ninety-seven year old individual who suffers from health problems, allowing the merits of a complaint to be heard solely on the paperwork submitted as an alternative form of communication/accommodation request to either the disabilities in question and/or the age and/or physical health of that elderly self-represented complainant."

The Commission in part, on April 21, 2016 answered as follows:

(pg. 10, 11) "We find that this approach is in the public interest, as it provides a reasonable accommodation for the Complainants while protecting the due process rights of all the Parties."

The OALJ at 801 Market Street, Philadelphia, PA has recently Accommodated Mindy Jaye Zied in proceedings before them with issues against the Department of Health & Human Services

On June 7, 2016, an accommodation request was made by ALJ Karen Merth who is an ALJ that is located at this very same office. (see here at **Exhibit #5**), after the Secretary of the Department of Health and Human Services, the Honorable Ted Dallas directed the Office of Administrative Law Judges to hear Ms. Zied's Appeal based upon the "Merits". (**Exhibit #4**)

ALJ Merth's accommodation request was as follows:

"This letter is to inform you that your request to not appear for the above mentioned administrative hearings and to rest on written briefs has been granted...You are now instructed to send a copy of each brief that you wish to provide in lieu of attending the hearing to the Philadelphia County Assistance Office...and to the Bureau of Hearings and Appeals ...by June 24, 2016...."

..The Department will be required to attend this rescheduled administrative hearing by telephone. However, if in the administrative hearing, the Department raises any questions based on your brief, these questions will be sent to you with a deadline. You will be required to provide your written response by the deadline...."

On September 14, 2016, another Administrative Law Judge from this office, 801 Market Street, ALJ Kevin Hipps, also accommodated Ms. Zied's disability accommodation request by making a ruling based on the written submissions by Ms. Zied. (see here 9/14/2016 Opinion against the Department of Health and Human Services, **Exhibit #6**)

Here is the accommodation requested granted by ALJ Hipps:

"The Appellant informed BHA that has a non-physical disability. Consequently the Appellant requested as a reasonable accommodation, that BHA hear the appeal "in Abstentia." The Appellant also requested that BHA accept her brief in lieu of her testimony. Based on the Appellant's disability and the governing regulations, her request was granted and subsequently, the Appellant's appeal was held "In Abstentia".

The Social Security Administrative Law Judge made a disability accommodation for Ms. Zied in a decision issued on November 28, 2014

Supplied here is a decision which was rendered on November 28, 2014 (here at **Exhibit**

3) from the Social Security Administration, Office of Disability Adjudication and Review.

The decision which was rendered said this:

"The undersigned finds that the claimant made a reasonable request to have all business conducted in writing....The undersigned instructs the field office to conduct all further business with the claimant in writing and to conduct the review of claimant's eligibility for benefits based on their written communications with the claimant."

The Commonwealth Court of Pennsylvania (No. 2547 C.D. 2009 , filed on August 25, 2010 - M.J.Z.-C. v. Department of Public Welfare)

Another example of how a disability accommodation requested was granted to Mindy

Jaye Zied was depicted in this particular opinion (here at **Exhibit #7**):

"in her notice of appeal, Petitioner asked BHA for the following accommodation:

The hearing will be in 'writing' based upon the briefs submitted by (Petitioner) due to her disability of 'Bipolar Disorder,' 'Paranoid Disorder,' 'Hypergraphia,' and 'Sleep Apnea.

....BHA assigned the matter to an ALJ, who scheduled a telephonic hearing and provided Petitioner with notice of the hearing.

In response, Petitioner sent the ALJ a letter, reiterating her request to not participate in the hearing:

Due to both my husband and my mental impairments (I can provide documentation from medical doctors about my psychiatric conditions, if needed) it is not as easy for me to communicate over the telephone. I get overwhelmed and forget the points I am trying to make. The most effective way for me to present these issues is for (me) to do so in writing....

..Before the hearing, Petitioner submitted her ALJ Brief, which included 21 exhibits spanning approximately 118 pages.....

...At the outset of the hearing, the ALJ stated his intention to telephone Petitioner to participate. However, he acknowledged her accommodation request and granted it. He "agree[ed] to accept her brief and enter [it] into the record and decide the case accordingly."...

Medical Documentation

For further support of the disabilities of the Complainants, Exhibit No's "8" through "11"

are provided here.

Laws, Rules, & Regulations which Support a Disability Accommodation Request

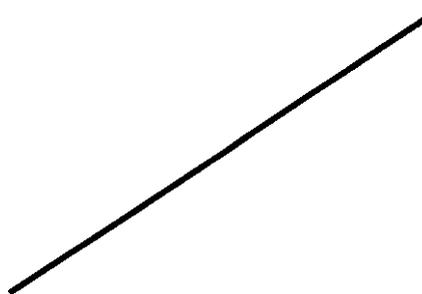
Access to an administrative hearing is a fundamental right under the state and federal constitutions. State and federal statutes require that people with disabilities be afforded equal access to government buildings and services. Their access must be just as effective as the access provided to other members of the public.

In some circumstances, hearing officers and agency staff can be held personally liable for failing to accommodate a person with disabilities.

Administrators of public programs must take steps to accommodate persons with disabilities, unless the accommodation fundamentally alters the nature of an activity or program or constitutes an undue administrative or financial burden.

The United States Constitution

Because access to the judicial process is a fundamental right, the United States Supreme Court has held that Title II of the ADA is constitutionally valid. In *Tennessee v. Lane*, the Court held that "Title II unquestionably is valid...as it applies to the class of cases implicating the accessibility of judicial services (.)" The Court observed that the "duty to accommodate is perfectly consistent with the well-established due process principle that 'within the limits of practicability, a State must afford all individuals a meaningful opportunity to be



heard' in its courts." This applies equally to administrative hearings¹.

In 2007, the North Dakota Office of Administrative Hearings was sued for not providing proper accommodations in an administrative hearing. In an unpublished opinion, the federal District Court of North Dakota cited *Tennessee v. Lane* and concluded that the State Office of Administrative Hearings was subject to Title II of the ADA. See *Voigt v. Wahl*, 2007 WL 1357113 (D.N.D., 2007)

The American With Disabilities Act of 1990 - The Rehabilitation Act of 1973, et. seq.

The Library of Congress

Report for Congress

Received through the CRS Web

Order Code 98-921 A

The Americans with Disabilities Act

(ADA): Statutory Language

and Recent Issues

Updated April 23, 2003

Nancy Lee Jones

Legislative Attorney

American Law Division

¹ The Sixth Circuit in *Lane* concluded that "Congress may require the states to consider the nature of the constitutional right at issue, the often relatively small cost of compliance, and the effect of failure to accommodate those with disabilities."

Tennessee forced George Lane to remain on the ground floor of the Polk County Courthouse while his hearing proceeded without him in a second-floor courtroom. Though his attorney shuttled between the ground and second floor during the proceeding, Lane's ability to provide advice or suggestion to his counsel was impaired, and his ability to conduct the proceeding himself if necessary was all but impossible. Lane's interest in meaningful participation in a criminal trial was effectively precluded by the state's failure to provide physical access to the courtroom. The state was constitutionally required to balance the burden of finding an accessible hearing room with the fundamental interests at stake for Lane and to take steps to ensure that he had physical access to it.

Summary

The Americans with Disabilities Act, ADA, provides broad nondiscrimination protection in employment, public services, public accommodations and services operated by public entities, transportation, and telecommunications for individuals with disabilities.

Background

The Americans with Disabilities Act, ADA, 42 U.S.C. §§12101 *et seq.*, has often been described as the most sweeping nondiscrimination legislation since the Civil Rights Act of 1964. It provides broad nondiscrimination protection in employment, public services, public accommodation and services operated by private entities, transportation, and telecommunications for individuals with disabilities. As stated in the Act, its purpose is "to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities." Enacted on July 26, 1990, the majority of the ADA's provisions took effect in 1992 but the body of law interpreting the ADA is still being created.

Before examining the provisions of the ADA and these cases, it is important to briefly note the ADA's historical antecedents. A federal statutory provision which existed prior to the ADA, section 504 of the Rehabilitation Act of 1973, prohibits discrimination against an otherwise qualified individual with a disability, solely on the basis of the disability, in any program or activity that receives federal financial assistance, the executive agencies or the U.S. Postal Service.

Many of the concepts used in the ADA originated in section 504 and its interpretations; however, there is one major difference. While section 504's prohibition against discrimination is tied to the receipt of federal financial assistance, the ADA also covers entities not receiving such funds. In addition, the federal executive agencies and the U.S. Postal Service are covered under section 504, not the ADA. The ADA contains a specific provision stating that except as otherwise provided in the Act, nothing in the Act shall be construed to apply a lesser standard than the standards applied under title V of the Rehabilitation Act (which includes section 504) or the regulations issued by federal agencies pursuant to such title.

Definition of Disability

Statutory Language

The definitions in the ADA, particularly the definition of "disability," are the starting point for an analysis of rights provided by the law. The term "disability," with respect to an individual, is defined as "(A) a physical or mental impairment that substantially limits one or more of the major life activities of such individual; (B) a record of such an impairment; or (C) being regarded as having such an impairment."

Public Services

General Requirements

Title II of the ADA provides that no qualified individual with a disability shall be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity or be subjected to discrimination by any such entity.

"Public entity" is defined as state and local governments, any department or other instrumentality of a state or local government and certain transportation authorities.

The Pennsylvania Constitution

COMMONWEALTH LAW IN SUPPORT OF ACCOMMODATION REQUEST

Rules of Judicial administrative Code - Pa Code title 201

The Pennsylvania Code

The Pennsylvania Code is an official publication of the Commonwealth of Pennsylvania. It contains regulations and other documents filed with the Legislative Reference Bureau under the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1102, 1201 – 1208 and 1602) and 45 Pa.C.S. Chapters 5, 7 and 9, known as the Commonwealth Documents Law (CDL). It consists of 55 titles

Consolidated Statutes

The Laws of Pennsylvania contain laws enacted as amendments to the Pennsylvania Consolidated Statutes, the official statutory codification established by the General Assembly under the act of November 25, 1970 (P.L.707, No.230). These laws have been incorporated into a separate official publication since 1975

Pennsylvania Constitution

"The Constitution devotes the domain to union, to justice, to defense, to welfare, and to liberty." William Henry Seward, speech, March 1850

The Pennsylvania Constitution ([HTML](#), [PDF](#), and [Microsoft Word](#)) is the foundation of our state government - the well from which liberty and justice spring forth. Our first Constitution was adopted in 1776 and was a framework for the U.S. Constitution, which did not take effect until 1789.

The articles and amendments of the Pennsylvania Constitution compose the fundamental law of the Commonwealth. It ensures basic rights to our citizens, outlines

the structure of our government, and provides the rules by which our representatives are elected and how they conduct the business of the state.

DECLARATION OF RIGHTS

WHAT ARE THE RIGHTS SET FORTH IN THE DECLARATION OF RIGHTS OF THE PENNSYLVANIA CONSTITUTION?

The Declaration of Rights of the Pennsylvania Constitution predates and was a model for the Bill of Rights of the United States Constitution. It is primarily a list of "don'ts" for the General Assembly in that it prohibits the enactment of laws that would infringe on certain rights.

Those rights and prohibitions are set forth in the 28 sections of the declaration, as follows:

Section 1 . Inherent Rights of Mankind

All men are born equally free and independent, and have certain inherent and indefeasible rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing and protecting property and reputation, and of pursuing their own happiness

Section 26. No Discrimination by Commonwealth or Political Subdivisions.

Neither the Commonwealth nor any political subdivision thereof shall deny to any person the enjoyment of any civil right, nor discriminate against any person in the exercise of any civil right.

Chapter 2 -Pennsylvania Code - Reasonable Accommodation requests under Title II of the American with Disabilities Act

Rule 250. Policy.

It is the policy of the Unified Judicial System to prohibit discrimination against any individual with a disability, as defined by the Americans with Disabilities Act ("ADA"), 42 U.S.C. § 12131 et seq., in accessing or participating in judicial proceedings or other services, programs, or activities of the Unified Judicial System.

Source

The provisions of this Rule 250 adopted March 3, 2014, effective immediately, 44 Pa.B. 1419.

Rule 251. Scope.

These rules shall apply to each UJS entity which includes, but is not limited to, all appellate courts, judicial districts, boards, committees and agencies under the administrative authority of the Supreme Court....

Rule 252. Reasonable accommodations.

A. Each UJS entity shall develop a written policy to receive and process requests for reasonable accommodations from individuals with disabilities. The policy shall be posted on each UJS entity's respective website and in each facility.

B. All policies developed must be substantially similar to the policy appended to this Rule (Appendix A) and shall contain, at a minimum, the following elements:

1. Appointment of an ADA coordinator—the coordinator must be identified on all court or program materials and the following information shall be provided: the coordinator's name, work address, work fax number or e-mail address and work telephone number.
2. Notice of the right to request free accommodation(s).
3. Explanation of the process for requesting accommodation(s).
4. Time line for request and response.

C. Each UJS entity **shall** develop a form substantially similar to the one appended to this rule (Appendix A) for processing requests for reasonable accommodations.

D. Each UJS entity **shall** adopt and publish a grievance procedure, substantially similar to the procedure appended to this rule (Appendix B), **for requests that have been denied in whole or in part. Any denial of an accommodation request based upon undue burden or fundamental alteration to services and programs shall be put in writing by the head of the entity or his or her designee and shall provide specific reasons for the denial.**

Source

The provisions of this Appendix A adopted March 3, 2014, effective immediately, 44 Pa.B. 1419

The Unified Judicial System of Pennsylvania (UJS) complies with Title II of the Americans with Disabilities Act (ADA) which provides that “no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public

entity, or be subjected to discrimination by any such entity". 42 U.S.C.A. § 12132. Pursuant to that requirement, if you are an individual with a disability who needs an accommodation in order to participate in any judicial proceeding or any other service, program, or activity of the UJS, you are entitled, at no cost to you, to the provision of certain assistance. The ADA does not require the (UJS entity name here) to take any action that would fundamentally alter the nature of its programs or services, or impose an undue financial or administrative burden.

If you require an accommodation under the ADA, it is recommended that you make your request as soon as possible or at least three (3) business days before your scheduled participation in any court proceeding or UJS program or activity. All requests for accommodation, regardless of timeliness, will be given due consideration and if necessary, may require an interactive process between the requestor and the (name of UJS entity) to determine the best course of action.

PA CODE 44

§44.1 Purpose.

The purpose of this chapter is to ensure that all employment and public accommodations subject to the coverage of the act are conducted, operated, and made available in a manner which does not discriminate on the basis of handicap or disability and which will effectively promote integration of handicapped or disabled people into the mainstream of life in this Commonwealth.

§44.4. Definitions

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Act - The Pennsylvania Human Relations Act (43 P. S. §§ 951-963).

Commission - The Human Relations Commission.

Facility - The term includes, but is not limited to, all or any portion of buildings, structures, equipment, roads, walks, parking lots, fixtures and other real or personal property.

Handicapped or disabled person - Includes the following:

(i) A person who has or is one of the following:

(A) A physical or mental impairment which substantially limits one or more major life activities.

(B) A record of an impairment.

(ii) As used in subparagraph (i), the phrase:

(A) "Physical or mental impairment" means a physiological disorder or condition, cosmetic disfigurement or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin, and endocrine or a mental or psychological disorder, such as mental illness, and specific learning disabilities.

(B) "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

(C) "Has a record of such an impairment" means has a history of or has been misclassified as having a mental or physical impairment substantially limits one or more major life activities.

Undue Hardship - The factors to be considered in determining whether an undue hardship is imposed by the requirement that a reasonable accommodation be made to a person's handicap or disability include, but are not limited to, the following:

(i) The overall size and nature of a business, organization, program or public accommodation, including number of employees, structure and composition of workforce, and number and type of facilities. However, financial capabilities to make reasonable accommodations shall only be a factor when raised as part of an undue hardship defense.

(ii) Good faith efforts previously made to accommodate similar handicaps or disabilities.

(iii) The extent, nature and cost of the reasonable accommodation needed.

(iv) The extent to which handicapped or disabled persons can reasonably be expected to need and desire the use, enjoy the benefit from the employment or public accommodation which is the subject of the reasonable accommodation in question.

IN the U.S. Department of Justice - Civil Rights Division - Disability Rights Section

Effective Communication

The Department of Justice published revised final regulations implementing the Americans with Disabilities Act (ADA) for title II (State and local government services) and title III (public accommodations and commercial facilities) on September 15, 2010, in the Federal Register. These requirements, or rules, clarify and refine issues that have arisen over the past 20 years and contain new, and updated, requirements, including the 2010 Standards for Accessible Design (2010 Standards)

Duplication of this document is encouraged. January 2014

Effective Communication Provisions

Covered entities **must** provide aids and services when needed to communicate effectively with people who have communication disabilities.

The key to deciding what aid or service is needed to communicate effectively is to consider the nature, length, complexity, and context of the communication as well as the person's normal method(s) of communication...

Companions

In many situations, covered entities communicate with someone other than the person who is receiving their goods or services. For example, school staff usually talk to a parent about a child's progress; hospital staff often talk to a patient's spouse, other relative, or friend about the patient's condition or prognosis. The rules refer to such people as "companions" and require covered entities to provide effective communication for companions who have communication disabilities.

The term "companion" includes **any family member**, friend, or associate of a person seeking or receiving an entity's goods or services who is an appropriate person with whom the entity should communicate.

Overview

People who have vision, hearing, or speech disabilities ("communication disabilities") use different ways to communicate. For example, people who are blind may give and receive information audibly rather than in writing and people who are deaf may give and receive information through writing or sign language rather than through speech.

The ADA requires that title II entities (State and local governments) and title III entities (businesses and nonprofit organizations that serve the public) communicate effectively

with people who have communication disabilities. The goal is to ensure that communication with people with these disabilities is equally effective as communication with people without disabilities

Who Decides Which Aid or Service Is Needed?

When choosing an aid or service, title II entities are required to give primary consideration to the choice of aid or service requested by the person who has a communication disability. **The state or local government must honor the person's choice**, unless it can demonstrate that another equally effective means of communication is available, or that the use of the means chosen would result in a fundamental alteration or in an undue burden (see limitations below) . If the choice expressed by the person with a disability would result in an undue burden or a fundamental alteration, the public entity still has an obligation to provide an alternative aid or service that provides effective communication if one is available.

Title III entities are encouraged to consult with the person with a disability to discuss what aid or service is appropriate. The goal is to provide an aid or service that will be effective, given the nature of what is being communicated and the person's method of communicating.

CONCLUSION

Everything pertaining to the Complainants' complaint to this tribunal is well documented with proof, affidavits, and evidence which supports the Complainants' initial complaint against P.E.C.O.

There is ample documentation supplied which clearly shows that accommodation requests are in order, and that the request by the Complainants to have this case decided on the merits of the case by the written submissions is in fact a reasonable disability accommodation request made on their behalf based upon the circumstances of those disabilities and the request being made here.

There are 14 Exhibits here, many of which clearly support the disability accommodation request made by the Complainants.

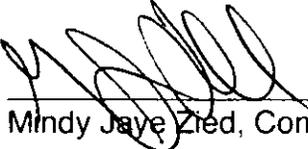
If there is still a problem in granting this particular request, the Complainants'

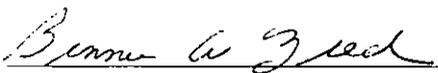
respectfully request that the question as posed in this particular document be sent and certified to the Commonwealth Court of Pennsylvania for that question of law to be addressed and further answered by this Commonwealth.

If the question is sent to the Commonwealth Court of Pennsylvania, the Complainants' request a stay of proceedings pending the resolution of the question at hand.

If the reasonable accommodation request should be denied, and the certification is further denied, to comply with the Complainants due process rights to be heard, please enclose the appropriate avenue of appeal rights so that the Complainants' can pursue this particular question to the Commonwealth Court of Pennsylvania themselves.

Respectfully Submitted,


 Mindy Jaye Zied, Complainant


 Binnie A. Zied, Complainant

Dated: December 23, 2016
 (14) Exhibits Attached

EXHIBITS

- Exhibit #1** - ALJ ORDER dated November 17, 2016
- Exhibit #2** - PUC April 21, 2016 Interlocutory ORDER
- Exhibit #3** - November 28, 2014 - SSA - ALJ - Mindy J. Zied made a reasonable request to have everything placed in writing
- Exhibit #4** - November 30, 2015- DHS Secty. Ted Dallas -Hearing on the Merits
- Exhibit #5** - June 7, 2016 ALJ Decision from 801 Market Street, Philadelphia, PA
- Exhibit #6** - DHS ALJ - 9/14/2016 - Decision accommodating Disability from the OALJ at 801 Market Street - Philadelphia, PA

- Exhibit #7** - Commonwealth Court of Pennsylvania (No. 2547 C.D. 2009 , filed on August 25, 2010 - M.J.Z.-C. v. Department of Public Welfare)
- Exhibit #8** - June 2, 1999 Medical Report - Mindy Jaye Zied-Campbell
- Exhibit #9** - 1/31/96 - Disability Determination - Affective Mood Disorder
- Exhibit #10** - May 30, 1974 - Mentally Disabled under Mental Health Care Act
- Exhibit #10(a)**- 7/6/1973 - Friends Hospital - Mindy Zied
- Exhibit #11** - Binnie Zied's Physician Letter dated August 21, 2015
- Exhibit #12** - First Judicial District of Pennsylvania - 11/5/2014 ORDER - ADA
- Exhibit #13** - Binnie Zied - Affidavit - August 23, 2015

Certificate of Service

RECEIVED

DEC 23 2016

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

EXHIBIT #1

November 17, 2016 - ORDER - ALJ Jones



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
Office of Administrative Law Judge
P.O. BOX 3265, HARRISBURG, PA 17105-3265
November 17, 2016

IN REPLY PLEASE
REFER TO OUR FILE

In Re: F-2015-2500342

MINDY JAYE ZIED AND BINNIE A ZIED
1948 KENTWOOD ST
PHILADELPHIA PA 19116

Mindy Jaye Zied and Binnie A. Zied v. PECO Energy Company

Various Disputes

Call-In Telephone Cancellation/Reschedule Hearing Notice

This is to inform you that the Initial Call in Telephonic Hearing on the above-captioned case previously scheduled for Tuesday, July 19, 2016, 10:00 a.m. has been canceled.

The hearing has been **rescheduled** as follows:

Type: Initial Call in Telephonic Hearing
Date: Wednesday, January 11, 2017
Time: 10:00 a.m.
Presiding: Administrative Law Judge Angela T. Jones
Pennsylvania Public Utility Commission
801 Market Street Suite 4063
Philadelphia, PA 19107
Telephone: 215.560.2105
Fax: 215.560.3133

At the above date and time, you must call into the hearing. If you fail to do so, your case will be dismissed. You will not be called by the Administrative Law Judge.

To participate in the hearing,

- You must dial the toll-free number listed below
- You must enter a PIN number when instructed to do so, also listed below
- You must speak your name when prompted
- The telephone system will connect you to the hearing

Toll-free Bridge Number: 1.855.750.1027
PIN Number: 846648

If you have any witnesses you want to have present during the hearing, you must provide them with the telephone number and PIN number.

If you have any hearing exhibits to which you will refer during the hearing, three (3) copies must be sent to the Administrative Law Judge and one (1) copy each must be sent to every other party. All copies **must be received** at least five (5) business days **before** the hearing.

Attention: You may lose the case if you do not take part in this hearing and present facts on the issues raised.

You must serve the Presiding Officer with a copy of ANY document you file in this case.

Individuals representing themselves are not required to be represented by an attorney. All others (corporation, partnership, association, trust or governmental agency or subdivision) **must** be represented by an attorney. An attorney representing you should file a Notice of Appearance **before** the scheduled hearing date.

If you are a person with a disability, and you wish to attend the hearing, we may be able to make arrangements for your special needs. Please call the scheduling office at the Public Utility Commission at least five (5) business days prior to your hearing to submit your request.

If you require an interpreter to participate in the hearings, we will make every reasonable effort to have an interpreter present. Please call the scheduling office at the Public Utility Commission at least ten (10) business days prior to your hearing to submit your request.

- Scheduling Office: 717.787.1399
- AT&T Relay Service number for persons who are deaf or hearing-impaired: 1.800.654.5988

pc: ALJ Jones
Stephen Townend
Calendar Copy
File Copy

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DEC 23 2016

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

EXHIBIT #2

April 21, 2016 - PUC Commission Decision - Interlocutory

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265**

Public Meeting held April 21, 2016

Commissioners Present:

Gladys M. Brown, Chairman
Andrew G. Place, Vice Chairman
Pamela A. Witmer
John F. Coleman, Jr.
Robert F. Powelson

Mindy Jaye Zied and Binnie A. Zied

P-2015-2520474

v.

PECO Energy Company

OPINION AND ORDER

BY THE COMMISSION:

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition is a Petition for Interlocutory Review and Answer to Material Question (Petition), filed by Mindy Jaye Zied and Binnie A. Zied (Complainants) on December 22, 2015, in the above-captioned proceeding. PECO Energy Company (PECO, Respondent, or Company) did not file a brief or other response to the Petition.

In the Petition, the Complainants request interlocutory Commission review and answer to the following material question:

Whether in the Commonwealth of Pennsylvania in order to be in compliance with the Americans with Disabilities Act of 1990, [42 U.S.C. §§ 12101-12213, specifically] § 12132, an in-person hearing can be waived by a self-represented individual and/or individuals who are impaired by permanent non-physical disabilities, which include but are not limited to, communication difficulties, and/or by a ninety-seven year-old individual who suffers from health problems, allowing the merits of a complaint to be heard based solely on the paperwork submitted as an alternative form of communication/accommodation request to either the disabilities in question and/or the age and/or physical health of that elderly self-represented complainant.

The Complainants request that the Commission answer the material question in the affirmative. Petition at 2.

For the reasons more fully discussed below, we shall answer the material question in the affirmative, in part, and return this matter to the Office of Administrative Law Judge (OALJ) for such proceedings as may be necessary.

History of the Proceeding

On August 24, 2015, the Complainants filed a Formal Complaint¹ alleging that there were incorrect charges on Mindy Zied's bills from PECO for electric service. This Complaint was given the Docket No. F-2015-2500342. The Complainants claimed the amount owed was the result of an improper transfer of a balance accrued at 1948 Kentwood Street, Philadelphia, Pennsylvania (service address) prior to Mindy Zied's alleged occupancy at the service address. The Complainants also alleged that there were no meters at the service address from March 23, 2014, through June 13, 2014, to generate accurate billing of the amount of electric usage at the service address. The Complainants disputed the amounts billed over that time period. Complaint at 2. The Complainants

¹ The Complaint was a timely appeal of an informal Bureau of Consumer Services (BCS) decision at BCS Case No. 003322542.

stated that they reached a settlement with a PECO customer service representative regarding the unmetered electric usage bill from March 23, 2014, until June 13, 2014, which resulted in a balance due of \$133.94, and that PECO failed to honor that settlement. *Id.* at 5. The Complainants further contested a deposit assessed to Mindy Zied's account on the basis that PECO previously told Mindy Zied that no deposit was required for her account. *Id.* at 2.

On September 10, 2015, the Respondent filed an Answer denying all material allegations of fact and conclusions of law in the Complaint. The Respondent stated that the Complainant Mindy Zied was responsible for the transferred balance attributable to the Complainant Binnie Zied's account based on the Respondent's contention that Mindy Zied resided at the service address and benefitted from the electric service. Answer at 5-6. The Respondent also averred that the charges were correct and that the security deposit assessed to Mindy Zied's account was in compliance with its tariff and Section 1404(a) of the Public Utility Code (Code), 66 Pa. C.S. § 1404(a). Answer at 4.

On September 15, 2015, the Complainants filed an objection to the Respondent's Answer and also moved for an immediate judgment in their favor. By Order dated November 2, 2015, Administrative Law Judge (ALJ) Angela T. Jones indicated that the document the Complainants filed would be considered a preliminary objection. In the Order, the ALJ overruled the objection and denied the Complainants' request because the Motion failed to conform to the seven grounds available for filing objections set forth in 52 Pa. Code § 5.101(a)(1)-(7).

On October 7, 2015, the Complainants served the ALJ with a "Motion for an Immediate Decision/Summary Judgment" and "Brief in Lieu of Hearing," which the

ALJ treated as a Motion for Summary Judgment (Motion).² Among other things, the Complainants requested that reasonable accommodations be made and that the ALJ decide the proceeding based on written submittals or a written brief instead of an in-person or telephonic hearing. The Complainants stated that Mindy Zied is “permanently disabled with a non-physical disability” and indicated that her mental health condition does not allow her to effectively participate in a telephonic hearing. Motion at 4. The Complainants also stated that Binnie Zied’s “health would be in jeopardy” if she had to attend a hearing and noted her age of ninety-seven as a factor that prohibits her physical attendance at a hearing. *Id.* at 3. The Motion contained thirteen attachments.

By Secretarial Letter issued October 9, 2015, the Commission’s Secretary indicated that the cover page of the Complainants’ Motion was sent to the Office of Governor Tom Wolf. The Secretarial Letter stated that, since this matter is still pending before the Commission and due to the statutory prohibition on *ex parte* communications, the Secretary served a copy of the Complainants’ correspondence to Governor Wolf’s office on the ALJ and PECO in order to cure any *ex parte* communication.

On November 2, 2015, PECO filed a Motion to File Response to Complainants’ Motion for Summary Judgment *Nunc Pro Tunc*. The Respondent acknowledged that its response was not timely due to an administrative oversight. The Respondent also noted that the Complainants’ Motion was procedurally defective because it did not contain a Notice to Plead.

PECO also filed a Response to the Complainants’ Motion on November 2, 2015. In its Response, PECO disputed any settlement between the Parties and denied that the Company removed the meter at the service address without notice. PECO averred

² The ALJ noted that the Motion was not filed with the Commission. Accordingly, the ALJ filed the Motion with the Secretary’s Bureau on November 10, 2015, and provided a copy of the Motion to PECO’s counsel.

that there were several genuine issues of material fact pending in this case which would make summary judgment inappropriate. The Respondent contended that an in-person hearing was required to assess the credibility of witnesses and the amount of witnesses and documents potentially required to effectively advocate the matter.

In the Order Denying Motion for Summary Judgment dated November 17, 2015 (*November 2015 Order*), the ALJ initially found that it was reasonable to consider PECO's Response, because the ALJ had not yet ruled on the Motion prior to PECO filing its Response, *nunc pro tunc*, and the Complainants' Motion failed to contain the required Notice to Plead. *November 2015 Order* at 5. In ruling on the Motion, the ALJ concluded that the documents presented by the Complainants did not excuse their attendance because, as listed Complainants in this case, they are responsible for the allegations made in the Complaint and bear the burden of proof concerning the allegations. The ALJ stated that the Complainants' filings contain material questions of fact, including whether PECO's actions toward the Complainants constituted fraudulent conduct; whether the removal and replacement of the meter at the service address complied with the Commission's Rules and Regulations; whether PECO and the Complainants reached a settlement; and whether the Complainants' bills for electric service were correct. *Id.* at 7. The ALJ provided the Complainants with the following five options for proceeding with the Complaint:

- (1) by agreeing to mediation;
- (2) by agreeing to settlement negotiations;
- (3) through a telephonic evidentiary hearing;
- (4) through an in-person hearing; or
- (5) by withdrawing the Complaint and proceeding in the appropriate federal or municipal court.

Id. at 7-8. The ALJ determined that, because material issues of fact were present, summary judgment was not appropriate. Accordingly, the ALJ directed the

Complainants to inform the ALJ and the Respondent regarding their choice for presenting the Complaint based on the five options provided above. *Id.* at 8.

On December 22, 2015, the Complainants filed the instant Petition. The Petition requested a stay of the hearing that was scheduled for January 28, 2016.

By Order dated December 28, 2015, ALJ Jones directed that the proceeding at Docket No. F-2015-2500342 be stayed until the Commission rules on the instant Petition.

By Secretarial Letter issued December 28, 2015, the Commission waived the thirty-day period for consideration set forth in 52 Pa. Code § 5.303 in order to provide adequate time for a thorough review of the question raised. *See* 52 Pa. Code § 1.2(c); *see also, C.S. Warthman Funeral Home, et al. v. GTE North, Incorporated*, Docket No. C-00924416 (Order entered June 4, 1993).

Discussion

Legal Standards

As a preliminary matter, we note that any issue we do not specifically delineate shall be deemed to have been duly considered and denied without further discussion. The Commission is not required to consider expressly or at length each contention or argument raised by the parties. *Consolidated Rail Corp. v. Pa. PUC*, 625 A.2d 741 (Pa. Cmwlth. 1993); *also see, generally, University of Pennsylvania v. Pa. PUC*, 485 A.2d 1217 (Pa. Cmwlth. 1984).

The Complainants filed their Petition pursuant to Section 5.302 of the Commission's Regulations, 52 Pa. Code § 5.302. During the course of a proceeding and pursuant to the provisions of 52 Pa. Code § 5.302, a party may seek interlocutory review

and answer to a material question which has arisen or is likely to arise. The standards for interlocutory review are well established. Section 5.302 of our Regulations requires that the petitioning party "state . . . the compelling reasons why interlocutory review will prevent substantial prejudice or expedite the conduct of the proceeding." The pertinent consideration is whether interlocutory review is necessary in order to prevent substantial prejudice – that is, the error and any prejudice flowing therefrom could not be satisfactorily cured during the normal Commission review process. *Joint Application of Bell Atlantic Corp. and GTE Corp.*, Docket No. A-310200F0002, *et al.* (Order entered June 10, 1999); *Pa. PUC v. Frontier Communications of Pa. Inc.*, Docket No. R-00984411 (Order entered February 11, 1999); *In re: Knights Limousine Service, Inc.*, 59 Pa. P.U.C. 538 (1985).

Pursuant to 52 Pa. Code § 5.303, the Commission may take one of the following courses of action on requests for interlocutory review and answer to a material question:

- (1) Continue, revoke or grant a stay of proceedings if necessary to protect the substantial rights of the parties.
- (2) Determine that the petition was improper and return the matter to the presiding officer.
- (3) Decline to answer the question.
- (4) Answer the question.

Generally, Petitions for Interlocutory Review are not favored, as the preferred approach is to permit proceedings to move forward in the normal course in order to provide all parties, the presiding officer, and the Commission with a full opportunity to develop the record, brief issues, and present arguments at each stage. *Re: Philadelphia Gas Works Universal Service and Energy Conservation Plan*, Docket No. M-00072021 (Order entered October 23, 2009), at 3.

The Complainants' Petition

The Complainants' Petition concerns ALJ Jones' rulings in the *November 2015 Order*. The material question raised in the Petition is as follows:

Whether in the Commonwealth of Pennsylvania in order to be in compliance with the Americans with Disabilities Act of 1990, [42 U.S.C. §§ 12101-12213, specifically] § 12132, an in-person hearing can be waived by a self-represented individual and/or individuals who are impaired by permanent non-physical disabilities, which include but are not limited to, communication difficulties, and/or by a ninety-seven year-old individual who suffers from health problems, allowing the merits of a complaint to be heard based solely on the paperwork submitted as an alternative form of communication/accommodation request to either the disabilities in question and/or the age and/or physical health of that elderly self-represented complainant.

The Complainants request that the Commission answer the material question in the affirmative. Petition at 2. The Complainants have attached the thirteen documents that were attached to their October 7, 2015 Motion.

In support of their Petition, the Complainants aver that Pennsylvania and federal law set forth requirements regarding the provision of reasonable accommodation requests for individuals with disabilities. The Complainants cite to 201 Pa. Code Ch. 2, which governs reasonable accommodations under the Americans with Disabilities Act of 1990 (ADA), and to the ADA, specifically 42 U.S.C. § 12132.³ Petition at 8-9. The Complainants state that Mindy Zied is considered a person who is in a protected class

³ Section 12132 provides the following: "Subject to the provisions of this title, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity."

based on her permanent psychological disabilities, which include bipolar disorder, paranoid disorder, and communication impairments. They also state that Binnie Zied is ninety-seven, suffers from health issues, and is a cancer survivor. Petition at 3, 4. The Complainants argue that the ALJ did not provide direction or instruction concerning the further ability for Mindy Zied to obtain the accommodation she was requesting based on her communicative disabilities or provide any information about appeal procedures. The Complainants claim that the ALJ did not allow for a reasonable accommodation for both Complainants that would enable them to effectively participate in the hearing process in this case. Petition at 14-15.

Disposition

Based upon our review of the Petition and the applicable law, we find that the Complainants' Petition supports the necessity for interlocutory review in order to prevent substantial prejudice or to expedite the conduct of the proceeding. The manner in which the Complainants are permitted to present their case will impact the due process rights of all Parties and their abilities to effectively participate in this proceeding. Because the Complainants' accommodation request affects the presentation of the Complainants' entire case and any testimony and exhibits that the Complainants wish to submit for the record, any potential error or prejudice that may flow from the *November 2015 Order* should be addressed at this time. We find that doing so will expedite the conduct of this proceeding and provide guidance to the Parties concerning the manner in which they will be expected to present their cases, while also ensuring the development of a factual record upon which the ALJ can issue a decision.

The material question presented by the Complainants requests a waiver of an in-person hearing and the ability to present the merits of the Complaint case based

solely on paperwork which they submit.⁴ In the *November 2015 Order*, the ALJ provided the Complainants with the following options for proceeding with their Complaint:

- (1) by agreeing to mediation;
- (2) by agreeing to settlement negotiations;
- (3) through a telephonic evidentiary hearing;
- (4) through an in-person hearing; or
- (5) by withdrawing the Complaint and proceeding in the appropriate federal or municipal court.

While we agree with the ALJ that the Complainants may proceed with any of these five options, we conclude that we can provide the Complainants with an additional accommodation option that is consistent with our procedural Regulations.

Consistent with Section 5.412 of our Regulations, the Parties may submit written testimony and accompanying exhibits, including direct testimony by the Complainants and rebuttal testimony by PECO, instead of presenting oral testimony during a hearing. We note, however, that any written testimony and exhibits submitted by the Parties will still be subject to the procedural rules regarding admissibility and cross-examination of the sponsoring witness. 52 Pa. Code § 5.412(c). The ALJ has the authority to establish the schedule and directives for the filing and authentication of written testimony and exhibits and for cross-examination by other Parties. To the extent that the Parties reach settlements and/or stipulate to facts or to the authenticity of documents, 52 Pa. Code §§ 5.232, 5.234, or admit to facts, 52 Pa. Code § 5.350, this may reduce the necessity for oral presentation during an in-person or telephonic hearing.

We find that this approach is in the public interest, as it provides a reasonable accommodation for the Complainants while protecting the due process rights

⁴ To the extent that the Complainants are seeking a determination of a violation or appeal rights under the ADA, the Commission does not have jurisdiction over such actions. As the ALJ indicated, ADA claims should be brought before the appropriate federal or municipal court.

of all of the Parties. Because there are material issues of fact present, we cannot waive the Parties' rights to cross-examination or prohibit the Parties from responding to arguments made by each other. *See, Hess v. Pa. PUC*, 107 A.3d 246, 266 (Pa. Cmwlth. 2014) (stating that the Commission is bound by the due process provisions of constitutional law which include "notice and an opportunity to be heard on the issues, to be apprised of the evidence submitted, to cross-examine witnesses, to inspect documents, and to offer evidence in explanation or rebuttal"). Based on our determination, we direct that, within twenty days of the entry date of this Opinion and Order, the Complainants provide in writing to the ALJ and counsel for the Respondent their choice on how to present the Complaint from the six options that have been provided.

Conclusion

For the reasons set forth above, we shall answer the material question presented by the Complainants in the affirmative, in part, and return this matter to the Office of Administrative Law Judge, consistent with the discussion in this Opinion and Order; **THEREFORE**,

IT IS ORDERED:

1. That the Petition for Interlocutory Review and Answer to Material Question, filed by Mindy Jaye Zied and Binnie A. Zied on December 22, 2015, is granted.
2. That the following question is answered in the affirmative, in part, consistent with this Opinion and Order:

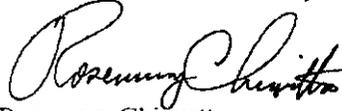
Whether in the Commonwealth of Pennsylvania in order to be in compliance with the Americans with Disabilities Act of 1990, [42 U.S.C. §§ 12101-12213, specifically] § 12132, an

in-person hearing can be waived by a self-represented individual and/or individuals who are impaired by permanent non-physical disabilities, which include but are not limited to, communication difficulties, and/or by a ninety-seven year-old individual who suffers from health problems, allowing the merits of a complaint to be heard based solely on the paperwork submitted as an alternative form of communication/accommodation request to either the disabilities in question and/or the age and/or physical health of that elderly self-represented complainant.

3. That this matter is returned to the Office of Administrative Law Judge for such proceedings as may be necessary, consistent with this Opinion and Order.

4. That, within twenty days of the entry date of this Opinion and Order, Mindy Jaye Zied and Binnie A. Zied shall provide in writing to the Administrative Law Judge and counsel for PECO Energy Company their choice for presenting the Complaint, consistent with the options discussed in this Opinion and Order.

BY THE COMMISSION,



Rosemary Chiavetta
Secretary

(SEAL)

ORDER ADOPTED: April 21, 2016

ORDER ENTERED: April 21, 2016

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

EXHIBIT #3

November 28, 2014 - SSA - ALJ - Mindy J. Zied made a reasonable request to have everything placed in writing

SOCIAL SECURITY ADMINISTRATION
Office of Disability Adjudication and Review

DECISION

IN THE CASE OF

CLAIM FOR

Mindy Jane Zied
(Claimant)

Supplemental Security Income

(Wage Earner)

(Social Security Number)

JURISDICTION AND HISTORY

This case is before the undersigned on a request for hearing dated April 14, 2014 (20 CFR 416.1429(c)(2)). The evidence in this case supports a fully favorable decision; therefore no hearing was held. See 20 CFR 416.1429(a).

The claimant was previously awarded Supplemental Security Income benefits after she filed an application for benefits in 1997. On December 17, 2013 she was contacted by the Social Security Administration for a review of her eligibility for benefits (Exhibit 6). It was requested that she phone into the office at a specified date and time for a redetermination interview. The claimant phoned in prior to the scheduled date of her interview and was unhappy with the result of the conversation. She then requested that all communication be in writing and did not phone in at the time of her scheduled appointment. She requested no further communication over the telephone (Exhibit 7). She provided information in writing to the field office regarding her finances (Exhibit 13). Nevertheless, it was determined that she was not cooperating with the field office and her benefits were terminated as a result (Exhibit 11).

DECISION

The undersigned finds that the claimant made a reasonable request to have all business conducted in writing and made at least some effort to comply with the field office's request for updated information. The undersigned instructs the field office to conduct all further business with the claimant in writing and to conduct the review of claimant's eligibility for benefits based on their written communications with the claimant.

/s/ James Garrett

James Garrett
Administrative Law Judge

November 28, 2014

Date

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SECRETARY'S BUREAU

EXHIBIT #4

November 30, 2015- Secty. Ted Dallas -Hearing on the Merits

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF HUMAN SERVICES

APPEAL OF:

Mindy J Zied-Campbell
1948 Kentwood Street
Philadelphia PA 19116-3942

CASE NO.: W15-08665 / 512955245-007

ORDER OF REMAND

AND NOW, the request for rehearing or reconsideration filed by the **APPELLANT** is **GRANTED** and the appeal is **REMANDED** to the Bureau of Hearings and Appeals.

The Bureau of Hearings and Appeals is directed to conduct a hearing on the merits of this matter.

The Secretary of Human Services also suggests that you contact one of the following for legal assistance with your appeal:

Philadelphia Legal Assistance
718 Arch Street, 5N
Philadelphia, PA 19106
215-981-3800

-OR-

Community Legal Services, Inc.
1410 W. Erie Avenue
Philadelphia, PA 19140
215-227-2400

NOV 30 2015

Secretary's Response and
Mailing Date



Theodore Dallas, Secretary
Department of Human Services

cc: Philadelphia CAO, Boulevard DO
Kelly Bray Snyder, Esq., ALJ
Dianne Wagner, Regional Manager

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

EXHIBIT #5

June 7, 2016 ALJ Decision from 801 Market Street,
Philadelphia, PA



pennsylvania
DEPARTMENT OF HUMAN SERVICES

Karen Merth
Administrative Law Judge

June 7, 2016

Mindy Zied-Campbell
1948 Kentwood St.
Philadelphia, PA 19116-3942

RE:
Case Nos.: 512955245 007 and 008

Dear Mindy Zied-Campbell:

Your motion requesting a stay pending the resolution of the Department of Agriculture's mediation of your civil rights discrimination complaint against the Pennsylvania Department of Human Services is denied.

This letter is to inform you that your request to not appear for the above mentioned administrative hearings and to rest on written briefs has been granted. This continuance has been granted for the express purpose of allowing time for you to submit your briefs for the hearings. From the brief dated November 17, 2015 it does not appear that the Department was copied. You are now instructed to send a copy of each brief that you wish to provide in lieu of attending the hearing to the Philadelphia County Assistance Office (CAO) Boulevard District Office (DO) [Department] and to the Bureau of Hearings and Appeals (BHA) by June 24, 2016.

A notice of the new hearing date and times for the above mentioned hearings will be sent to you via United States Postal Service in the coming weeks. The Department will be required to attend this rescheduled administrative hearing by telephone. However if in the administrative hearing, the Department raises any questions based on your brief, these questions will be sent to you with a deadline. You will be required to provide your written response by the deadline. You must contact BHA at 215-560-2145 should you desire to appear for this hearing.

Sincerely,

A handwritten signature in cursive script that reads "Karen Merth".

Karen Merth
Administrative Law Judge

cc: Philadelphia CAO, Boulevard DO
Ed Moody, PCAO
File

Bureau of Hearings and Appeals

801 Market Street, Suite 5005 | Philadelphia, PA 19107 | T: 215.560.2145 | F: 215.560.2378 | www.dhs.state.pa.us

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

EXHIBIT #6

DHS ALJ - 9/14/2016 - Decision accommodating Disability
from the OALJ at 801 Market Street - Philadelphia, PA

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF HUMAN SERVICES
BUREAU OF HEARINGS AND APPEALS**

APPEAL OF: Mindy J. Zied-Campbell
1948 Kentwood Street
Philadelphia, PA 19116-3942

CASE NO.: 512955245-008M

ORDER

It is hereby **ORDERED** that the appeal of the Appellant is **SUSTAINED**. Within 21 days of the Administrative Action Order date, the CAO is directed to re-compute the Appellant's Supplemental Nutritional Assistance Program (SNAP) benefits effective September 1, 2015 with consideration of the Appellant's property tax and all other shelter expenses that were present at the time of the appeal. The CAO will also consider all sources of income that were present at the time of the appeal. The CAO will issue a new notice of determination and any SNAP benefits that are owed within the time frame as stated above.

September 14, 2016
Date


Kevin J. Phillips
Administrative Law Judge

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF HUMAN SERVICES
BUREAU OF HEARINGS AND APPEALS**

APPEAL OF: Mindy J. Zied-Campbell
1948 Kentwood Street
Philadelphia, PA 19116-3942

CASE NO.: 512955245-008M

ADJUDICATION

OPENING STATEMENT

This is an administrative hearing on the appeal of the above named Appellant from a decision of the Philadelphia County Assistance Office Boulevard District (CAO). The Hearing was originally scheduled for December 1, 2015. However, the Appellant failed to appear and BHA dismissed the Appellant's appeal due to abandonment. The Appellant filed for reconsideration of her dismissed appeal and on December 23, 2015, the Secretary of the Department of Human Services, Theodore Dallas, granted the Appellant's reconsideration request and remanded the appeal to BHA and ordered that a hearing be held on the merits.

The Appellant informed BHA that she has a non-physical disability. Consequently the Appellant requested, as a reasonable accommodation, that BHA hear her appeal "In Absentia." The Appellant also requested that BHA accept her brief in lieu of her testimony. Based on the Appellant's disability and the governing regulations, her request was granted and subsequently, the Appellant's appeal was held "In Absentia".

The Appellant separately filed a Supplemental Nutritional Assistance Program appeal and a Medical Assistance appeal. However, the Appellant comingled the two issues in her brief. Consequently, BHA scheduled the Appellant's appeals concurrently. The Appellant's appeals were heard simultaneously however, separate adjudications will be issued.

The initial hearing was held at the Bureau of Hearing and Appeals (BHA), 801 Market Street, 4th Floor, Philadelphia Pennsylvania, on February 23, 2016. The hearing was reconvened by telephone on July 12, 2016 to ensure that the Appellant's special hearing accommodations were appropriately addressed. All witnesses were sworn in by the undersigned and testified under oath.

Kevin J. Hipps, Administrative Law Judge (ALJ), presided.

APPEARANCES

FOR THE DEPARTMENT OF PUBLIC WELFARE:

Toni Zimmerman (TZ), Income Maintenance Caseworker (appeared on February 23, 2016)

Marguerite LaBrie (ML), Income Maintenance Caseworker (appeared on July 12, 2016)

FOR THE APPELLANT:

None

EXHIBITS

FOR THE DEPARTMENT OF HUMAN SERVICES:

None

FOR THE APPELLANT:

Brief (163 pages)

A-1 Appellant's Real Estate Tax bill 2015 (1 page)

A-2 Letter from Veterans affairs dated November 13, 2015 (1 page)

A-3 Notice of Determination (Excerpts) dated August 13, 2015 (5 pages)

ISSUE

Whether the CAO correctly computed the Appellant's Supplemental Nutritional Assistance Program (SNAP) benefits effective September 1, 2015.

FINDINGS OF FACT

1. Prior to August 13, 2015, the Appellant applied for SNAP benefits for herself and her husband.
2. In its SNAP computation, the CAO considered the Appellant's husband's monthly Social Security (SS) income in the amount of \$466.00, monthly Veteran's benefit in the amount of \$675.00, and monthly income from the Civil Service Retirement Commission (CSRC) in the amount of \$743.00 (Exhibit A-3).
3. The CAO evaluated the Appellant's SNAP benefits based on 200% of the Federal Poverty Index Guidelines (FPIG) because the Appellant and her husband are disabled.
4. The CAO computed the Appellant's SNAP benefits with a \$155.00 standard deduction allowed (Exhibit A-3).
5. After applying the deduction, the CAO determined that the Appellant's net monthly income was \$1,729.00.
6. On August 13, 2015, the CAO notified that the Appellant of its decision to authorize the Appellant for SNAP benefits in the amount of \$16.00 monthly effective September 1, 2015.
7. On October 28, 2015, the Appellant filed the instant appeal with the Bureau of Hearings and Appeals (BHA).

-
8. On December 1, 2015 at 2:00 p.m., the Appellant was scheduled to appear for a scheduled Administrative Hearing at BHA in Philadelphia. (file)
 9. On December 1, 2016 at 2:00 p.m. the Appellant did not appear for her scheduled hearing and consequently her appeal was dismissed due to abandonment. (file)
 10. The Appellant filed for reconsideration and it was granted by the Secretary of the Department of Human Services, Theodore Dallas. (file)
 11. On December 23, 2015, the Secretary of the Department of Human Services, Theodore Dallas, remanded the Appellant's appeal to BHA with an order to conduct a hearing on the merits. (file)
 12. The Appellant's appeal was scheduled for February 23, 2016. (file)
 13. On February 17, 2016, the Appellant made a written request to BHA to have her appeal heard "In Absentia" due to her nonphysical disability and the Appellant submitted a brief to be considered in lieu of her testimony.
 14. The presiding ALJ granted the Appellant's based on the Appellant's disability and the governing regulations under the Americans with Disabilities Act (ADA).
 15. On February 23, 2016, BHA heard the Appellant's appeal "In Absentia".
 16. On June 7, 2016, BHA notified both parties that the February 23, 2016 hearing was being rescheduled. (file)
 17. On June 21, 2016, BHA received the Appellant's 163 page brief.
 18. On June 30, 2016, both parties were notified that the Appellant's hearing was rescheduled for July 12, 2016. (file)
 19. On July 12, 2016, the Appellant's hearing was held by telephone; the CAO Representative appeared by telephone and the Appellant submitted a brief in lieu of her testimony.
 20. The CAO Representative at the July 12, 2016 hearing acknowledged that the CAO received the Appellant's 163 page brief.
 21. Within the Appellant's 163 page brief, the Appellant provided proof of property taxes (Exhibit A-1).
 22. At the Administrative Hearings on February 23, 2016 and on July 12, 2016, the CAO failed provide proof that it considered the Appellant's property tax and utility expenses in the Appellant's SNAP computation.

DISCUSSION**The Department's Position:**

Both IMCW's testified that the Appellant and her husband were evaluated and determined eligible for SNAP benefits in the amount of \$16.00 monthly effective September 1, 2015. They testified that, at the time of the determination, the Appellant had no income but her husband had three sources of income. The IMCWs testified that, at the time of the SNAP determination, the Appellant's husband received monthly Social Security Disability benefits in the amount of \$466.00, monthly Veterans benefits in the amount of \$675.00 and monthly income from CSRS in the amount of \$743.00. IMCW (TZ) initially testified that she did not know the source of the CSRS income. Then she subsequently testified that the CSRS income of 743.00 was from employment. ML testified that the CSRS income was retirement income from the Civil Service Commission. Both IMCWs testified that that Appellant's husband's total monthly gross income was \$1,884.00.

The IMCWs testified that the SNAP benefits were evaluated based on 200% of the Federal Poverty Index Guidelines (FPIG) because the Appellant and her husband are disabled. They testified that the Appellant was given a \$155.00 standard deduction and the Shelter/Utility Allowance (SUA) in the amount of \$570.00. The IMCW testified that after completing the computations, the Appellant's net income was \$1,729.00 monthly which is the basis of the \$16.00 issuance. She testified that based on the SNAP allotment issuance chart a 2-person household with monthly income of \$1,729.00 is eligible for \$16.00.

IMCW ML testified that the Appellant requested additional SNAP benefits due to her need for a special diet. She testified that the SNAP regulations do no give consideration for special diets.

The Appellant's Position:

The Appellant in this case provided a brief in lieu of her testimony. In the Appellant's brief, she argued that the she made many requests to the CAO to disclose any evidence that the CAO was to be used at the Administrative hearing. She testified that she requested her entire case file on numerous occasions and did not receive any documentation from the CAO. The Appellant argued that she gave the CAO numerous expenses that the CAO did not take into consideration. The Appellant argued that the CAO did not count her husband's pension, Social Security, the VA income correctly.

APPLICABLE LAW AND DEPARTMENTAL REGULATIONS

**PENNSYLVANIA RULES OF JUDICIAL ADMINISTRATION REASONABLE
ACCOMMODATIONS UNDER TITLE II OF THE AMERICANS WITH DISABILITIES**

ACT RULE 250. POLICY

It is the policy of the Unified Judicial System to prohibit discrimination against any individual with a disability, as defined by the Americans with Disabilities Act ("ADA"), 42 U.S.C. § 12131 et seq., in accessing or participating in judicial proceedings or other services, programs, or activities of the Unified Judicial System.

RULE 251. SCOPE

These rules shall apply to each UJS entity which includes, but is not limited to, all appellate courts, judicial districts, boards, committees and agencies under the administrative authority of the Supreme Court. These rules relating to reasonable accommodations under Title II of the ADA do not supersede either the requirements of 42 Pa.C.S.A. § 4401 et seq. relating to Court Interpreters for Persons who are Deaf or Hard of Hearing, or the Administrative Regulations Governing Court Interpreters for Persons who are Deaf or Hard of Hearing.

Note: The Administrative Regulations Governing Court Interpreters for Persons who are Deaf or Hard of Hearing (204 Pa. Code §101 et seq.) and 42 Pa.C.S.A. § 4401 et seq. provide standards for court interpreters in judicial proceedings. "Judicial proceeding" is defined as "an action, appeal or proceeding in any court of this Commonwealth." 2 Pa.C.S. § 101. Title II of the ADA requires an interpreter for the deaf or hard of hearing for all programs, services or activities of the UJS. 42 U.S.C.A. §12132; 28 C.F.R. §35.160.

RULE 252. REASONABLE ACCOMMODATIONS

A. Each UJS entity shall develop a written policy to receive and process requests for reasonable accommodations from individuals with disabilities. The policy shall be posted on each UJS entity's respective website and in each facility.

B. All policies developed must be substantially similar to the policy appended to this Rule (Appendix A) and shall contain, at a minimum, the following elements:

1. Appointment of an ADA coordinator – the coordinator must be identified on all court or program materials and the following information shall be provided: the coordinator's name, work address, work fax number or e-mail address and work telephone number.
 2. Notice of the right to request free accommodation(s).
 3. Explanation of the process for requesting accommodation(s).
 4. Time line for request and response.
- C. Each UJS entity shall develop a form substantially similar to the one appended to this rule (Appendix A) for processing requests for reasonable accommodations. D. Each UJS entity shall adopt and publish a grievance procedure, substantially similar to the procedure appended to this rule

(Appendix B), for requests that have been denied in whole or in part. Any denial of an accommodation request based upon undue burden or fundamental alteration to services and programs shall be put in writing by the head of the entity or his or her designee and shall provide specific reasons for the denial. E. Within six (6) months of the adoption of this rule, each UJS entity shall provide the Administrative Office with a copy of their ADA policy and form and their grievance procedure and form as outlined in sections A-D above.

APPENDIX A AMERICANS WITH DISABILITIES ACT (TITLE II) POLICY

The Unified Judicial System of Pennsylvania (UJS) complies with Title II of the Americans with Disabilities Act (ADA) which provides that "no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity". 42 U.S.C.A. §12132. Pursuant to that requirement, if you are an individual with a disability who needs an accommodation in order to participate in any judicial proceeding or any other service, program, or activity of the UJS, you are entitled, at no cost to you, to the provision of certain assistance.

The ADA does not require the (UJS entity name here) to take any action that would fundamentally alter the nature of its programs or services, or impose an undue financial or administrative burden. If you require an accommodation under the ADA, it is recommended that you make your request as soon as possible or at least three (3) business days before your scheduled participation in any court proceeding or UJS program or activity. All requests for accommodation, regardless of timeliness, will be given due consideration and if necessary, may require an interactive process between the requestor and the (name of UJS entity) to determine the best course of action.

Regulation 7 CFR §273.9(d)(3) - Income and deductions. Deductions shall be allowed only for the following household expenses:

Excess medical deduction. That portion of medical expenses in excess of \$35 per month, excluding special diets, incurred by any household member who is elderly or disabled as defined in §271.2. Spouses or other persons receiving benefits as a dependent of the SSI or disability and blindness recipient are not eligible to receive this deduction but persons receiving emergency SSI benefits based on presumptive eligibility are eligible for this deduction. Allowable medical costs are:

(i) Medical and dental care including psychotherapy and rehabilitation services provided by a licensed practitioner authorized by State law or other qualified health professional.

(ii) Hospitalization or outpatient treatment, nursing care, and nursing home care including payments by the household for an individual who was a household member immediately prior to entering a hospital or nursing home provided by a facility recognized by the State.

(iii) Prescription drugs, when prescribed by a licensed practitioner authorized under State law, and other over-the-counter medication (including insulin), when approved by a licensed practitioner or other qualified health professional.

(A) *Medical supplies and equipment.* Costs of medical supplies, sick-room equipment (including rental) or other prescribed equipment are deductible;

(B) *Exclusions.* The cost of any Schedule I controlled substance under The Controlled Substances Act, 21 U.S.C. 801 *et seq.*, and any expenses associated with its use, are not deductible.

(iv) Health and hospitalization insurance policy premiums. The costs of health and accident policies such as those payable in lump sum settlements for death or dismemberment or income maintenance policies such as those that continue mortgage or loan payments while the beneficiary is disabled are not deductible;

(v) Medicare premiums related to coverage under Title XVIII of the Social Security Act; any cost-sharing or spend down expenses incurred by Medicaid recipients;

(vi) Dentures, hearing aids, and prosthetics;

(vii) Securing and maintaining a seeing eye or hearing dog including the cost of dog food and veterinarian bills;

(viii) Eye glasses prescribed by a physician skilled in eye disease or by an optometrist;

(ix) Reasonable cost of transportation and lodging to obtain medical treatment or services;

(x) Maintaining an attendant, homemaker, home health aide, or child care services, housekeeper, necessary due to age, infirmity, or illness. In addition, an amount equal to the one person coupon allotment shall be deducted if the household furnishes the majority of the attendant's meals. The allotment for this meal related deduction shall be that in effect at the time of initial certification. The State agency is only required to update the allotment amount at the next scheduled recertification; however, at their option, the State agency may do so earlier. If a household incurs attendant care costs that could qualify under both the medical deduction and dependent care deduction, the State agency shall treat the cost as a medical expense.

Regulation 55 PA Code 275.4(a) states in pertinent part that the Agency staff responsibility after review. If the issue is not resolved to the satisfaction of the appellant after the agency review, or if the appellant wants to proceed with the hearing, the agency receiving the appeal will do the following:

(1) Consider that an appeal of a denial, reduction or discontinuance made within the time limitations as described in § 275.3(b) obviates the requirement of a reapplication by the appellant.

(II) Make available without charge to the appellant or his representative on as early a date as possible prior to the hearing the following:

(-a-) Information contained in the case record upon which the decision or action is based and which the county office or administering agency or provider agency will introduce as evidence at the hearing as well as other case record materials which are relevant to the issues raised by the appeal as described in § 275.3(a)(3).

Regulations 55 PA Code 275.3 (a) states in pertinent part that an appellant has the right to appear in person at the hearing and he may represent himself, or he may be represented. For food stamps, the appellant may also bring friends or relatives to the hearing; however the hearing examiner may limit the number of persons in attendance at the hearing if space limitations exist. The appellant or his representative, if any, have the following rights:

(1) To present evidence on his own behalf, to bring witnesses or documents he deems necessary, and to confront and cross-examine witnesses the county office, administering agency or social service provider will produce to support its decision or action.

(2) To request a subpoena from the hearing officer for the production of evidence or witnesses that he feels will be essential in obtaining necessary facts.

(3) To examine prior to the hearing, as well as during the hearing, documents which the county office, administering agency or social service provider will introduce as evidence in the hearing as well as the contents of the case files as provided for in § 105.5 (relating to access by an individual to his case file) or appropriate confidentiality regulations for the service program.

(i) If the appellant requests material from the case file, other than narrative material dated prior to January 1, 1980 which the County Assistance Office, administering agency, or service provider believes is within one of the exceptions of § 105.5(b) or appropriate confidentiality regulations for the service program, a hearing officer will determine prior to the date of the hearing, whether the material is relevant and whether it tends to support the position of the appellant. However, under no circumstances may the same hearing officer conduct the hearing.

(ii) The hearing officer will refuse access to irrelevant material, but will allow access with appropriate safeguards to relevant, confidential information which supports the position of the appellant. If the office, agency, or provider wishes to protect the confidentiality of such relevant information, in spite of the decision of the hearing officer, it must provide the relief requested. The case record material will be made available on as early a date as possible prior to the hearing so that the appellant and his representative shall have ample opportunity to review the evidence of the county or that of the administering agency or social service provider and prepare their case.

(iii) To obtain a hearing officer's determination of whether the appellant may examine the material in question, the County Assistance Office, administering agency

or social service provider will promptly provide the Office of Hearings and Appeals a summary of the situation which will include the following:

- (A) The decision or action which precipitated the appeal and the reasons for it.
- (B) The specific document or subject matter the appellant wants to examine.
- (C) The reasons for withholding the material.

(iv) A copy of the summary will also be promptly provided to the appellant, who shall have the right, on a timely basis, to submit to the hearing officer the reasons for requesting the specific matter which the appellant wishes to examine. The Hearing Officer will notify the County Assistance Office, administering agency or social service provider of his determination as to what materials are required to be disclosed with a copy sent to the appellant and his representative, if any. The determination will be made on a timely basis in advance of the date of the hearing. No administrative appeal will be permitted from the determination of the hearing officer.

Regulation 55 PA Code §105.5. Access by an individual to his case file.

(a) Except as limited by subsection (b), the entire contents of the case file of an individual which is maintained by a County Assistance Office, administering agency or service provider, will be made available to the individual and to his authorized representative. The agency may request that authorization of the representative be in writing signed by the individual. Requests for access will be honored if approved by the County Assistance Office Director or made at the following times:

- (1) At the time of redetermination of eligibility or reapplication for assistance.
- (2) After a request for a fair hearing.

(b) For the purposes of subsection (a), the contents of the case file of an individual may not include the following:

- (1) Case narrative prior to January 1, 1980 unless that information is directly relevant to the issue in a fair hearing requested by the individual.
- (2) Medical records, unless the supplying physician consents to their release.
- (3) Information of a confidential or personal nature about members of the grant group, other than information about the individual requesting access.
- (4) A written or narrative summary of complaints or allegations received by the Department about the individual. The substance of the complaints shall be available in summary form, to the extent that it is possible to do so while still insuring the continued confidentiality of the informant.
- (5) Information compiled in reasonable anticipation of a civil or criminal action or proceeding.

(c) For the purposes of subsection (a), the term made available means that an individual will be permitted to examine his case file during normal working hours at the County Assistance Office in the presence of a staff member. No material may be removed from the case file by the individual; however, up to ten pages of material may be copied for the individual, if he so requests. If more than ten pages of material are requested, the Department may require the individual to pay a reasonable cost per page for reproducing the material in excess of ten pages.

(d) An individual may request, within 10 days following the review of his case file, that the agency correct or delete any portion thereof which the individual believes to be inaccurate, irrelevant or incomplete.

(1) If the Department agrees with the request of the individual the Department will promptly make the requested correction.

(2) If the agency objects to the request of the individual, the Department will promptly inform the individual of its objection, the reason for the objection, and the right of the individual to request a fair hearing as provided in § 275.1(a)(1) (relating to policy). Hearing requests must be made within 30 days of the date of the notice of refusal to amend as provided in § 275.3(b)(1) (relating to requirements).

(e) Nothing in this section limits access to the contents of a case file through the use of legal process, including a subpoena or proper discovery proceedings in the course of litigation. This section only is intended to define the terms of access outside of the use of legal process.

Regulations 55 PA Code § 275.4 states in pertinent part that:

(h) *Hearing decisions.* Hearing decisions will conform with the following:

(1) *Hearing authority.* Hearing authority will conform with the following:

(i) The hearing authority will be the Secretary of the Department.

(ii) The designated hearing officer will have the delegated authority from the Secretary to make the decision on the appeal. Decisions will, therefore, be rendered in the name of the Department and will be binding on the County Board of Assistance. Administering or provider agencies involved shall be similarly bound by the decision of the designated hearing officer, subject to their right to appeal from that decision to Commonwealth Court. Provisions of the decision will be promptly carried out.

(iii) The Office of Hearings and Appeals is under the direct supervision of the Secretary or his designee. The function of the hearing officer in rendering a hearing decision will be as follows:

(A) To determine the facts.

(B) To determine the appropriate regulations that apply.

(C) To determine the action that should be taken in relation to the established facts and correct application of Departmental regulations.

(iv) Hearing officers may not render a decision on the validity of a Departmental regulation nor may they invalidate or modify a Departmental regulation. Hearing officers must, when necessary, interpret regulations when regulations are ambiguous. Hearing decisions receiving final administrative action are restricted to the case at issue and do not create a precedent or apply to an entire class unless the hearing involves an entire class as defined in subsection (e)(6)(i).

Regulations 55 PA Code § 275.4(g)(2) states in pertinent part that hearing decisions will be based on the following:

The hearing officer will restrict his decision to the hearing record, which will consist of testimony and exhibits introduced into the hearing and the notice of action taken by the agency and the appeal of the client. The hearing officer will make his adjudication in accordance with regulations established by the Department which have been promulgated in accordance with the Commonwealth Documents Law.

Agency staff responsibility at the hearings. The County Assistance Office and other agencies as appropriate will prepare for the hearing so that evidence considered in making the decision or taking the action which is at issue and evidence that supports that decision or action will be introduced at the hearing in an orderly and concise manner. Relevant information which is presented at a hearing will include the following:

- (i) Names, relationships and ages of the persons affected, and the type of assistance involved.
- (ii) The decision or action which prompted the request for the hearing.
- (iii) Description of the relevant facts and events leading to the decision or action plus evidence to support the decision or action, including identification of the pertinent regulations applied in making the decision.
- (iv) Detailed computation of the grant, allowances and income, before and after implementation of the agency decision or action.

Regulation 55 PA Code § 201.1. Policy. States in pertinent part that the client will be the primary source of information in establishing eligibility for financial assistance. As a condition of eligibility the client will be required, to the extent that he is able, to substantiate the information he has provided by documentary evidence or other means as may serve to establish the truth of his statements.

ANALYSIS and DECISION

The Appellant in this case requested that her appeal be heard "In Absentia" due to her non-physical disability. She provided briefs and requested that they be considered in lieu of her testimony. The Appellant argued that her request is a reasonable

accommodation under the Americans with Disabilities Act. After review of the Americans with Disabilities Act (TITLE II) Policy Appendix A, the ALJ granted the Appellant's request as it qualifies as a reasonable accommodation. The Appellant's reasonable accommodation request does not cost the BHA any additional expense to hold her hearing "In Absentia" nor does it violate the fundamental principles of BHA's court system since BHA does conduct certain hearings with only the party that bears the burden of proof being present.

The Appellant argued that prior to the administrative hearing she made numerous requests for the release of her case file material and that her request was ignored by the CAO. The IMCW (TZ) testified that she was not the Appellant's primary caseworker and was not sure if the case material was sent to the Appellant. Regulations 55 PA Code 105.5, Regulation 55 PA Code 275.3, and Regulation 275.4 mandate that the CAO disclose all information to be used against the Appellant at the Administrative hearing and also mandate that the CAO allow the Appellant access to relevant portions of her case file.

Specifically, the regulations found at 55 PA Code 105.5(a) states that the case file of an individual which is maintained by a County Assistance Office, administering agency or service provider, will be made available to the individual. These regulations in 55 PA Code 105.5(c) further prescribe how the Department is to make available the case file. An individual is permitted to examine her case file during normal working hours at the County Assistance Office in the presence of a staff member and up to ten pages of material may be copied, without cost, for the individual.

The Appellant's brief, on page 69, notes that she has not "received the actual paperwork" concerning the SSA related change or her "entire case record" alluding to her possible expectation that she was going to receive a paper copy of the above mentioned documents. The Appellant's brief is silent as to if she has presented herself within the above mentioned guidelines and been denied access to examine her case file. Lacking this foundation, the ALJ finds that the Appellant has not established that she has been denied access to her case file.

The Appellant's brief mentioned an undefined concern of due process violations in proceeding with her requested appeal in the manor she desired to accommodate her disability. That concern appears to have been alleviated by the presence of this administrative hearing in combination with the congruent administrative hearing regarding her medical assistance benefits.

The issue under appeal is whether the CAO correctly computed the Appellant's SNAP benefits effective September 1, 2015. In consideration of the Appellant's case under these special circumstances, the ALJ stated at the Administrative hearing that he reserved the right to relabel the Appellant's exhibits. In light of the volume and the extensive amount of duplication, the ALJ labeled only exhibits that were relevant to the August 13, 2015 notice which is under appeal.

The Appellant argued that that CAO did not compute her SNAP eligibility correctly citing that that CAO did not consider all of her shelter expenses, as well as counted her husband's veterans benefits, social security, and pension incorrectly. The Appellant also argued that she and her husband are on a special diet due to diabetes and the CAO failed to consider that in the SNAP allotment. SNAP regulation 7 CFR §273.9(d)(3) list the deductions that are allowable for the SNAP eligibility allotment. There are no provisions within this or any other SNAP regulation that allow deductions for individuals with special diets.

In this case, the two IMCWs who were present for the Administrative hearings, essentially presented the same financial testimony regarding the Appellant's SNAP computation. The Appellant submitted a great many irrelevant expenses in her 163 page brief. However, the Appellant's real estate tax verification from 2015 is relevant and was not mentioned by either IMCW.

Although the IMCWs testified that the Appellant was given the SUA, the August 13, 2015 SNAP notice does not provide detailed accounting of what was considered in the eligibility determination. The notice indicates that no expenses were considered. If there were no allowable expenses, the CAO should have explained that at the Administrative Hearing. Regulations 55 PA Code 275.4(g)(2) states that the CAO has the responsibility for providing pertinent details and computations in order to demonstrate that its computations are correct. Based on that regulation, the Appellant's appeal must be sustained and the appropriate order shall follow.

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DEC 23 2016

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

EXHIBIT #7

Commonwealth Court of Pennsylvania
(No. 2547 C.D. 2009 , filed on August 25, 2010
- M.J.Z.-C. v. Department of Public Welfare)

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

M. J. Z-C.,	:	
	:	
Petitioner	:	
	:	
v.	:	No. 2547 C.D. 2009
	:	Submitted: June 25, 2010
Department of Public Welfare,	:	
Respondent	:	

BEFORE: HONORABLE DAN PELLEGRINI, Judge
 HONORABLE ROBERT SIMPSON, Judge
 HONORABLE ROCHELLE S. FRIEDMAN, Senior Judge

OPINION NOT REPORTED

MEMORANDUM OPINION
 BY JUDGE SIMPSON

FILED: August 25, 2010

In this appeal, Petitioner, representing herself, seeks review from a final decision of the Department of Public Welfare (DPW), Bureau of Hearings and Appeals (BHA) affirming a decision by an administrative law judge (ALJ). The ALJ dismissed as moot Petitioner's appeal from medical assistance (MA) "discontinue notices," after a County Assistance Office (current CAO) rescinded the notices. Finding no error, we affirm.

DPW, through the current CAO, provided Petitioner, her daughter, and Petitioner's husband, with MA. In September 2009, the current CAO issued Petitioner two notices (collectively, Discontinue Notices) stating that CAO was discontinuing husband's and daughter's MA on September 23, 2009. The current CAO based both MA terminations on Petitioner's failure to provide two income related documents.

Petitioner appealed to BHA. She challenged the current CAO's decision to discontinue MA. She also raised a number of other issues, not directly connected with the Discontinue Notices. In her notice of appeal, Petitioner asked BHA for the following accommodation:

The hearing will be in 'writing' based upon the briefs submitted by [Petitioner] due to her disability of 'Bipolar Disorder,' 'Paranoid Disorder,' 'Hypergraphia,' and 'Sleep Apnea.' Discovery will be needed and information requested to the ALJ from [the current] CAO.

Certified Record, Item #4, Petitioner's Brief before the ALJ (ALJ Brief), Ex. 4, Notice of Appeal at 2. BHA assigned the matter to an ALJ, who scheduled a telephonic hearing and provided Petitioner with notice of the hearing.

In response, Petitioner sent the ALJ a letter, reiterating her request to not participate in the hearing:

Due to both my husband and my mental impairments (I can provide documentation from medical doctors about my psychiatric conditions, if needed) it is not as easy for me to communicate over the telephone. I get overwhelmed and forget the points I am trying to make. The most effective way for me to present these issues is for [me] to do so in writing.

In the past, an incident which occurred between an ALJ, [the prior] County, and myself, via telephone, left me feeling like I was railroaded into being coerced into either withdrawing [my] hearing, or having a decision that became a "moot" issue. So, in all practicality, and fairness, I would like all the issues heard, as to why I believe (1) an [sic] MA discontinue [n]otice was sent to [me]; and further had been (2) unfairly stopped, in writing, by way of submitted a brief, which can be done and sent to your office on November 16, 2009.

ALJ Brief, Exhibit 20, Letter from Petitioner to ALJ, 11/8/09, at 1-2.

Before the hearing, Petitioner submitted her ALJ Brief, which included 21 exhibits spanning approximately 118 pages. The exhibits included two notices from the current CAO, dated October 28, 2009, to the husband and the daughter respectively, indicating that the CAO reinstated MA benefits for each as of September 24, 2009, one day after the effective date of the Discontinue Notices.

In her ALJ Brief, Petitioner conceded that her challenge to the Discontinue Notices was “no longer the issue at hand.” ALJ Brief, at 3. She acknowledged “the [family members were] now receiving medial benefits.” *Id.* Nonetheless, she asked the ALJ to address the other issues “because they are relevant to the ... Discontinue Notice[s] [the current CAO] sent ... on September 11, 2009.”¹ *Id.*

¹ In her notice of appeal to the ALJ, Petitioner: (1) challenged the prior County Assistance Office handling of her records two years earlier; (2) challenged her need to report income semiannually; (3) “Cross-Appeal[ed] for DPW and ... [the current] CAO retaliating against [Petitioner] for filing” a federal lawsuit; (4) “Cross-Appeal[ed] due to DPW and ... CAO discriminating against [Petitioner] due to her mental disability which violates Title II of the American with Disabilities Act of 1990 [42 U.S.C. §§12131-65]; and 504 of the Rehabilitation Act of 1973 [29 U.S.C. §§701-97(b)]”; and (5) argued the DPW violated various sections of the DPW’s nondiscrimination regulations at 55 Pa. Code §§107.1-4. Notice of Appeal at 2.

In her ALJ Brief, Petitioner reiterated averments that DPW and the current CAO may have purposefully discontinued her benefits in retaliation for a federal law suit she brought against DPW and the prior County Assistance Office. She also argued that the (1) the current CAO and DPW violated her due process rights, and 55 Pa. Code §275.4(a)(3)(v)(C)(1) by terminating her benefits during the pendency of her appeal; and (2) the current CAO violated 55 Pa. Code §201.3 by terminating her benefits more than 15 days after receiving a re-application for medical benefits.

At the outset of the hearing, the ALJ stated his intention to telephone Petitioner to participate. However, he acknowledged her accommodation request and granted it. He “agree[ed] to accept her brief and enter [it] into the record and decide the case accordingly.” ALJ Hearing, Notes of Testimony (N.T.) 11/18/09, at 6-7. The ALJ then heard testimony telephonically from a CAO income maintenance caseworker supervisor (Supervisor).

Supervisor testified that after receiving Petitioner’s appeal document, the current CAO opened the case, determined that it erred in issuing the Discontinue Notices, and rescinded them. He acknowledged that Petitioner’s coverage in DPW’s Health Maintenance Organization (HMO) ceased on September 23, 2009. He testified, however, that the medical coverage was “immediately [reinstated], and there was no loss in [medical] coverage” for the daughter. N.T. at 7. This coverage was effective September 24, 2009. Id.

The ALJ concluded Petitioner’s appeal was moot because DPW rescinded the notices on which Petitioner based her appeal. Additionally, the ALJ concluded Petitioner’s other issues were not properly before him because they did not arise from the Discontinue Notices. BHA affirmed the ALJ’s final order. Petitioner now petitions for review to this Court.

Petitioner raises several relevant issues before the Court: (1) the ALJ erred in applying the mootness doctrine; (2) the ALJ violated her due process rights by issuing a decision without giving her a chance to respond to what CAO asserted; and, (3) CAO improperly terminated her daughter’s coverage while her

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

EXHIBIT #8

June 2, 1999 Medical Report - Mindy Jaye Zied-Campbell

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County of San Diego

BERT K. ROSS, M.D.
DIRECTOR

HEALTH AND HUMAN SERVICES AGENCY

1700 PACIFIC HIGHWAY, SAN DIEGO, CA 92101-3417
(619) 516-8558 FAX (619) 618-6568

AREA AGENCY ON AGING
COMMISSION ON CHILDREN, YOUTH
AND FAMILIES
DEPARTMENT OF HEALTH SERVICES
DEPARTMENT OF SOCIAL SERVICES
PUBLIC ADMINISTRATOR/PUBLIC GUARD
VETERAN SERVICES OFFICE

June 2, 1999

To: Social Security Administration
1305 Union Court
Oceanside, Ca 92054-5659

Re: Mindy Jaye Zied-Campbell
SSN # [REDACTED]

To Whom It May Concern:

Concerning my patient, Mindy Jaye Zied-Campbell, it is in my professional opinion that everyday since January 1, 1996 Ms. Zied-Campbell would have been unable to file for her Social Security disability hearing because of the symptoms derived from her mental health condition.

Ms. Zied-Campbell has two disorders, one which is Schizoaffective Disorder, Bipolar Type, and the other Paranoid Disorder. With relation to the Bipolar Disorder, Ms. Zied-Campbell experiences severe mood swings ranging from mania to severe depressive episodes. Often times people who are clinically depressed experience sadness, loss of interest/motivation, sleep impairment, decrease energy, increase fatigue, inability to focus/concentrate and are unable to initiate and/or complete simple tasks.

With respect to her second diagnosis, Paranoid Disorder, she frequently remains at home for fear that others are watching her or following her thus making it more difficult for her to leave her home to complete daily chores.

Ms. Zied-Campbell is presently taking anti-anxiety medication and we are experimenting with finding the appropriate anti-depressant medication.

Should you have any further questions please feel free to contact me at the telephone numbers listed below.

Sincerely Yours,

Camellia P. Clark M.D.
Camellia P. Clark, M.D.
Staff Psychiatrist
1701 Mission Avenue, Ste. A
Oceanside, CA 92054
(760) 967-4473

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EXHIBIT 02, P1

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Faculty Directory



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 Associate Clinical Professor
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 La Jolla, CA 92093
 PHONE #: (858)552-8585 ext. 2580
 FAX #: (858)458-4201

E-MAIL: cclark@vapop.ucsd.edu

Biography

Dr. Clark's bioengineering background, fascination with the nervous system, & diagnosis of narcolepsy as a first-year neurosurgery resident led her toward psychiatry, with strong sleep & brain imaging research interests.

Research Focus

Her major interests have been in imaging (SPECT, structural and functional MRI) and sleep research. She is currently using locally developed perfusion MRI to examine the antidepressant effects of one night of partial sleep deprivation. (Her previous study used SPECT.)

Most of her sleep research has focused on major depression, at times including co-morbid alcoholism and anxiety. She helped develop projects involving the effects of acute tryptophan depletion effects on mood and sleep and the effects of transdermal nicotine on mood, sleep and smoking in depressed smokers. I have also collaborated on immune function studies of depression and primary insomnia.

Clinical Focus

Her main clinical interests include affective disorders (especially major depression), sleep disorders, and the interface between neurology and psychiatry.

During Dr. Clark's time as medical director of a day program for the severely mentally ill, she has also developed an interest in treatment of refractory psychotic disorders.

Selected Publications

- Clark CP, Frank L, Brown G (2001) ASleep Deprivation, EEG, and Functional MRI in Depression: Preliminary Results@ *Neuropsychopharmacology* 25:S79-S84
- Clark CP, Dupont RM, Golshan S, Gillin JC (2000) APreliminary Evidence of an Association Between Increased REM Density and Poor Antidepressant Response to Partial Sleep Deprivation@ *Journal of Affective Disorders* 59:77-83
- Clark CP, Gillin JC, Demodena A, Smith TL, Irwin M, Schuckit M (1999) APolysomnography and Depressive Symptoms in Primary Alcoholics with and without a Lifetime

<http://psychiatry.ucsd.edu/faculty/cclark.html>

Diagnosis of Secondary Depression and in Patients with Primary Major Depression@ *Journal of Affective Disorders* 52:177-185

- Clark CP, Dupont RM, Lehr P, Yeung D, Halpern S, Golshan S, Gillin JC (1998) Are There a Relationship Between Delta Sleep at Night and Afternoon Cerebral Blood Flow, Assessed by Waking HMPAO-SPECT in Depressed Patients and Normal Control Subjects?: Preliminary Data@ *Psychiatric Research: Neuroimaging* 84:89-99 (Received Sleep Research Society Young Investigator Award 1999 based on this paper)
- Clark CP, Alexopoulos GS, Kaplan J (1995) "Prolactin Release and Clinical Response to Electroconvulsive Therapy in Depressed Geriatric Inpatients: A Preliminary Report" *Convulsive Therapy* 11:24-31

| Home | Administration | Resources | Search |
| Clinical Services | Educational Programs | Research Programs | Faculty Directory |
University of California - San Diego, Department of Psychiatry, 3500 La Jolla Village Drive, Mail Code 0603, La Jolla, CA 92037-0603
Telephone: (619) 534-3884, Fax: (619) 534-7803, Electronic Mail: ccclark@ucsd.edu

UCSD <http://psychiatry.ucsd.edu/faculty/ccclark.html>

<http://psychiatry.ucsd.edu/faculty/ccclark.html>

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Exhibit #9

SSA Disability determination - Affective Mood disorder

117

DEPARTMENT OF HEALTH AND HUMAN SERVICES
SOCIAL SECURITY ADMINISTRATION

DISABILITY DETERMINATION AND TRANSMITTAL

1. DETERMINATION ODS <input checked="" type="checkbox"/> ODD <input type="checkbox"/> DD <input type="checkbox"/> DOP <input type="checkbox"/> DPTSC <input type="checkbox"/>		2. DOB CODE S59	3. FILING DATE 6/28/95	4. SSN [REDACTED]	5IC (if CDB or DWB CLAIM) 895
3. NAME AND ADDRESS OF CLAIMANT (include ZIP Code) MINDY J ZIED NO 14 8421 CARLISLE DR SAN DIEGO, CA 92114			6. WEB NAME (if CDB or DWB CLAIM)		
7. TYPE CLAIM (Tab II) DIB <input checked="" type="checkbox"/> FZ <input type="checkbox"/> DWB <input type="checkbox"/> CDB-R <input type="checkbox"/> CDB-D <input type="checkbox"/> RDA <input type="checkbox"/> RD-D <input type="checkbox"/> ED <input type="checkbox"/> FJR <input type="checkbox"/> FJD <input type="checkbox"/> MOPS <input type="checkbox"/>			8. TYPE CLAIM (Tab 2VD) DI <input type="checkbox"/> D2 <input type="checkbox"/> DC <input type="checkbox"/> D3 <input type="checkbox"/> D4 <input type="checkbox"/> D5 <input type="checkbox"/> D6 <input type="checkbox"/> D7 <input type="checkbox"/> D8 <input type="checkbox"/> D9 <input type="checkbox"/> D0 <input type="checkbox"/>		
9. DATE OF BIRTH 8/02/55		10. PRIOR ACTION PD <input type="checkbox"/> PT <input type="checkbox"/>		11. REMARKS RECON FILED 10/11/95 619-697-9141 Concurrent Case 11/02/95 Ref Agy	
12. DISTRICT BRANCH OFFICE ADDRESS (include Zip Code) 2530 E Plaza Blvd National City, CA 91950			13. DO-BO REPRESENTATIVE 14. DATE 11A. <input type="checkbox"/> Presumptive 11B. <input type="checkbox"/> Treatment		
DETERMINATION PURSUANT TO THE SOCIAL SECURITY ACT, AS AMENDED					
15. CLAIMANT DISABLED A. <input type="checkbox"/> Disability Begins B. <input type="checkbox"/> Disability Ceased		16A. PRIMARY DIAGNOSIS BODY STR 12 CODE NO 2960 Affective (Mood) Disorder		16B. SECONDARY DIAGNOSIS CODE NO 0000 None Established (No Medical Evidence in File)	
17. DIARY TYPE MO/YR REASON		19. CLAIMANT NOT DISABLED A. <input checked="" type="checkbox"/> Through Date of Onset Determination B. <input type="checkbox"/> Through C. <input type="checkbox"/> Before Age 22 (CDB Only)			
20. VOCATIONAL BACKGROUND		21. RESIDENCE CODES M6-1516		22. MED LIST NO.	
23. NATIONALS <input type="checkbox"/> See Attached SSA-1056-UMCS <input type="checkbox"/> Check if Vocational Rule App. Cite Rule		24. PHYSICIAN OR MEDICAL SPEC. NAME (Shop, Print, or Type) JOEL ROSS, M.D.			
25. BASIS CODE		26. REV. DET. CODES		27. SSA REPRESENTATIVE	
28. LIST NO.		29. NATIONALS		30. DATE 1/31/96	
31. DATE		32. PHYSICIAN OR MEDICAL SPEC. SIGNATURE [Signature]		33. DATE 2/10/96	
34. REMARKS CER:Y EOR:Y Recon Affirmation		35. BASIS CODE		36. REV. DET. CODES	
37. NATIONALS		38. DATE		39. DATE	

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FEB - 6 1996
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EXHIBIT #10

May 30, 1974 - Mentally Disabled under the Mental Health
Care Act of 1966

COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY

IN RE: MIRDY ZIED MAY TERM, 1978
a person alleged to be mentally disabled

REPORT OF MASTER IN MENTAL HEALTH

WHEREAS, a petition for commitment of the above named Respondent has been filed under Section 400 of the Mental Health and Mental Retardation Act of 1955, for MIRDY ZIED AND:

WHEREAS, on May 10 1978, a hearing was held before the undersigned at which hearing there was present, inter alia,

1. the above named respondent;
2. J. Matthews Esq., Attorney for Petitioner
3. H. Levine Esq., Attorney for Respondent
4. _____

At this hearing the following testimony was presented:

David Gred

and testimony of the attorney for the Respondent.

FINDINGS

BEST COPY OBTAINABLE

- That in consideration of the testimony presented, your HONORABLE COURT MIRDY ZIED is a person who is mentally disabled within the meaning of this Act.
- That the above named person is not mentally disabled within the meaning of said Act and that the Petition be dismissed.

RECOMMENDATION

FOR THEREFORE, it is recommended by the undersigned MASTER that the named Respondent be committed by your Honorable Court to Philadelphia Hospital pursuant to Section 404, Sec. 4 - (Sec. 5) and that your Honorable Court sign the ORDER entered in this Report in conformity with this recommendation.

Respectfully submitted,

David Gred
MASTER IN MENTAL HEALTH

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EXHIBIT #10(a)

Friends Hospital - 7/6/1973

FRIENDS HOSPITAL

255, MINDY

DISCHARGE SUMMARY

7/6/73 - Dr. Weiner:rb
on May 22, 1973

Miss Zied is an 18 year old, white, female who is admitted to Friends Hospital

On May 13, 1972, Miss Zied persuaded a young man to take her for a ride on his motorbike. The couple had an accident and the young man was killed. Three weeks ago, the patient argued with her mother and said that she would leave home. Mindy did leave home and from time to time she would visit a group of boys who lived in a house together. Prior to admission, one of the boys burned to death after smoking in bed.

Physical examination on admission showed no significant abnormalities.

Mental status on admission showed a young woman who was virtually mute, negativistic and had a blunted affect. She was withdrawn and uncooperative. Impression on admission was catatonic schizophrenia

The patient responded quite poorly to psychotherapy and tranquilization. She was worked up for electroshock and she underwent 7 treatments. As a result of this mode of therapy, she responded quite well and began to look healthier. It is to be noted, however that she still appeared to have a thinking disorder at the time of discharge. She was negativistic and there was some question throughout her hospital stay as to whether she maintained strict probity in her responses to questions.

PROVISIONAL DIAGNOSIS: Catatonic schizophrenia

FINAL DIAGNOSIS: Catatonic schizophrenia

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EXHIBIT #11

Binnie Zied's Physician Letter dated August 21, 2015

August 21, 2015

To: PECO - Exelon Corporation
2301 Market Street/S23-1
Philadelphia, PA 19101-8699

Attn: Mr. William J. Donohue
Phone: (215) 841-4417
Fax: **(215) 841-4474**

From: Dr. Michael Segal
Temple Physicians
9331 Old Bustleton Ave.
Suite 100
Philadelphia, PA 19115
(215) 671-0653

On Behalf of:

Binnie Zied
1948 Kentwood Street
Philadelphia, PA 19116
(215) 934-7909

RE: PECO Account #53972-14144 - Account Name: Mindy Zied

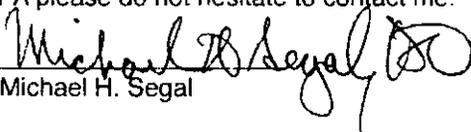
To Whom It May Concern:

I am the physician of Binnie Zied. It has recently been brought to my attention that PECO has sent a 10 day shut off notice to be processed on August 31, 2015.

My patient, Binnie Zied is 96 years old, and she resides in the upper level of the residence listed above. It is my professional opinion that due to temperatures rising from 95 - 100 degrees this summer, that if Ms. Binnie Zied's electric is shut off, it will pose imminent danger to her health.

It would be more advantageous if there are alternative measures in resolving the issues which might be pending before PECO, than to shut off the electric at this particular residence.

Should you need any further information which does not violate Ms. Zied's rights under HIPPA please do not hesitate to contact me.


Dr. Michael H. Segal

* * * Communicat on Result Report (Aug. 21. 2015 12:24PM) * * *

11
23

Date/Time: Aug. 21. 2015 12:23PM

File No.	Mode	Destination	Pg(s)	Result:	Page No: Sent
4351	Memory TX	2158414474	P. 1	OK	

Reasons for failure:
 E. 3) Hang up or line fail
 E. 3) No answer
 E. 3) Exceeded max. E-mail size
 E. 2) Busy
 E. 4) No facsimile connection

August 21, 2015

To: PECO - Exelon Corporation
 2301 Market Street/S23-1
 Philadelphia, PA 19101-6099

Attn: Mr. William J. Donohue
 Phone: (215) 841-4417
 Fax: (215) 841-5575

From: Dr. Michael Segal
 Temple Physicians
 8331 Old Bustleton Ave.
 Suite 100
 Philadelphia, PA 19115
 (215) 671-0653

On Behalf of:

Blinie Zied
 1948 Kanhwood Street
 Philadelphia, PA 19116
 (215) 934-7808

RE: PECO Account #52972-14144 - Account Name: Mandy Zied

In Whom I May Concern:

I am the physician of Blinie Zied. It has recently been brought to my attention that PECO has sent a 10 day shut off notice to be processed on August 31, 2015.

My patient, Blinie Zied is 96 years old, and she resides in the upper level of the residence listed above. It is my professional opinion that due to temperatures rising from 85 - 100 degrees this summer, that if Ms. Blinie Zied's electric is shut off, it will pose imminent danger to her health.

It would be more advantageous if there are alternative measures in resolving the issues which might be pending before PECO, than to shut off the electric at this particular residence.

Should you need any further information which does not violate Ms. Zied's rights under HIPAA please do not hesitate to contact me.

Michael A. Segal
 Dr. Michael A. Segal

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Exhibit #12

First Judicial District of Pennsylvania - 11/5/2014 ORDER- ADA

FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
ADMINISTRATIVE GOVERNING BOARD
OF THE FIRST JUDICIAL DISTRICT OF PENNSYLVANIA

No 02 of 2014

**In re: Americans with Disabilities Act (Title II) Policy, Americans with
Disabilities Act (Title II) Grievance Procedure, and Implementing Forms**

ORDER

AND now, this 5th day of November, 2014, upon review, discussion and consideration of the attached policies providing for reasonable accommodations for the public under Title II of the Americans with Disabilities Act. IT IS HEREBY ORDERED and DECREED that the Administrative Governing Board of the First Judicial District of Pennsylvania adopts and promulgates the attached "Americans with Disabilities Act (Title II) Policy" and "Americans with Disabilities Act (Title II) Grievance Procedure" and implementing forms.

The original Order, Americans with Disability Act Policy, Grievance Procedure and Forms shall be filed with the Office of Judicial Records in a Docket maintained for orders issued by the Administrative Governing Board of the First Judicial District of Pennsylvania. The Order, Americans with Disability Act Policy, Grievance Procedure and Forms shall be submitted to the Pennsylvania Bulletin for publication and shall become effective thirty (30) days after publication in the Pennsylvania Bulletin. Copies shall also be submitted to the Administrative Office of Pennsylvania Courts, American Lawyer Media, The Legal Intelligencer, Jenkins Memorial Law Library, and the Law Library for the First Judicial District of Pennsylvania, and shall be posted on the website of the First Judicial District of Pennsylvania: <http://www.courts.phila.gov/>.

BY THE COURT:

/s/ John W. Herron

Honorable John W. Herron
Chair, Administrative Governing Board
First Judicial District of Pennsylvania
Administrative Judge, Trial Division
Court of Common Pleas, Philadelphia County

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EXHIBIT#13

Binnie Zied Affidavit - August 23, 2015

August 23, 2015

AFFIDAVIT OF BINNIE A. ZIED

My name is Binnie A. Zied. I have lived at 1948 Kentwood Street, Philadelphia, Pennsylvania 19116 since 1968. The house I live in is an all Electric House, and P.E.C.O. is the entity I have paid since that time for my electricity.

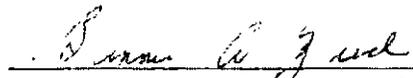
I am 96 years old, and live in the Upper part of the aforementioned residence.

Based upon my age, and the fact that I have two hearing aids, I am unable to handle certain financial affairs.

I give authority and permission to my daughter, Mindy Jaye Zied to act on my behalf pertaining to anything that has to do with my PECO Account - #53972 - 00307.

In addition, I was told by PECO employees over the telephone which was on speaker with my daughter present, that if I wanted the money that was in dispute returned to me, that I should not pay off my bill in full, when I transferred the account to my daughter. My daughter has not lived here since 1984. I never gave anyone including PECO permission to transfer the money owed on my account to my daughter or anyone else.

I declare under penalty of perjury that the aforementioned is true.



Binnie A. Zied, Complainant/Customer

Date: August 23, 2015

**BEFORE THE
PENNSYLVANIA UTILITY COMMISSION**

MINDY JAYE ZIED,)	
BINNIE A. ZIED,)	
<i>Complainants</i>)	Docket No. F-2015-2500342
)	
v.)	
)	
PECO ENERGY COMPANY/EXELON,)	
<i>Respondents</i>)	

CERTIFICATE OF SERVICE

I, Mindy Jaye Zied hereby certify that I have this day served a copy of Complainants' renewed Motion for a disability accommodation request plus Exhibits, upon all interested parties by mailing USPS first class postage pre-paid mail today to:

Shawane L. Lee
PECO Legal Department
Counsel for PECO Energy Company
2301 Market Street, S23-1
P. O. Box 8699
Philadelphia, PA 19101-8699

Commonwealth of Pennsylvania
Pennsylvania Public Utility Commission
Office of Administrative Law Judge
P. O. Box 3265
Harrisburg, PA 17105-3265

Rosmary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

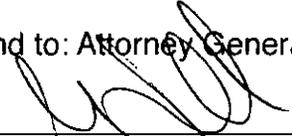
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Administrative Law Judge Angela T. Jones
Pennsylvania Utility Commission
801 Market Street, 4th Floor, Suite 4063
Philadelphia, PA 19107

and to: Attorney General (el.) of Pennsylvania



 Mindy Jaye Zied
 1948 Kentwood Street
 Philadelphia, PA 19116
 (717)856-9607
mindyjziedcampbell@icloud.com

Date: December 23, 2016

MAIL ★

FROM:

Ms Mindy Zied Campbell
1948 Kentwood St
Philadelphia, PA 19116

P



U.S. POSTAGE
\$6.45
PM 2-DAY
19104 0006
Date of sale
12/23/16
06 2S00
08276833

PRIORITY MAIL 2-DAY™

EXPECTED DELIVERY 12/28/2018

SHIP TO: **0006**

HARRISBURG PA 17120

USPS TRACKING NUMBER



9505 5000 0388 6358 0000 92

**Rosmary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120**

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