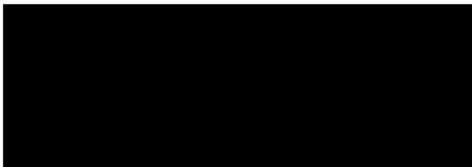


STATE OF FLORIDA
DEPARTMENT OF CHILDREN AND FAMILIES
OFFICE OF APPEAL HEARINGS

FILED

MAR 31 2014

OFFICE OF APPEAL HEARINGS
DEPT. OF CHILDREN & FAMILIES



APPEAL NO. 13F-11639

PETITIONER,

Vs.

CASE NO. 

FLORIDA DEPT OF
CHILDREN AND FAMILIES
CIRCUIT: 09 Osceola
UNIT: 66032

RESPONDENT.

FINAL ORDER

Pursuant to notice, the undersigned telephonically convened an administrative hearing in the above-referenced matter at 1:55 p.m. on January 15, 2014. The hearing was reconvened at 1:00 p.m. on February 14, 2014.

APPEARANCES

For the Petitioner:  pro se

For the Respondent: Sandra Villegas, ACCESS senior eligibility specialist
Randy Bight, ACCESS supervisor

STATEMENT OF ISSUE

At issue is the respondent's action to deny petitioner full Medicaid and instead enroll her in the Medically Needy Program with a Share of Cost (SOC).

PRELIMINARY STATEMENT

By notice dated October 9, 2013 respondent notified petitioner she was ineligible for the Medically Needy Program. Petitioner timely requested a hearing to challenge the denial of Medicaid.

Appearing as a translator at January 15, 2014 hearing was Carlos (ID 18430), from Language Line Services. Sandra Villegas represented the respondent at the January 15, 2014 hearing. Appearing as a translator at the February 14, 2014 hearing was Eduardo (ID 15616), from Language Line Services. Randy Bright represented the respondent at the February 14, 2014 hearing. Petitioner submitted one exhibit, entered as Petitioner Exhibit "1". Respondent submitted six exhibits, entered as Respondent Exhibits "1" through "6". The record was held open until February 18, 2014 for respondent to submit additional evidence. Respondent's evidence was received timely and entered as Respondent Exhibit "7". The record was closed on February 18, 2014.

FINDINGS OF FACT

1. Prior to the action under appeal, petitioner, date of birth [REDACTED] received disability Medicaid.
2. On September 20, 2013 petitioner submitted a recertification application for Food Assistance (FA) and Medicaid benefits for her household. Household includes petitioner and her husband. FA and Medicaid for petitioner's husband is not an issue.
3. Respondent verified petitioner's husband's Social Security Disability Income (SSDI); he received \$1,094 in December 2013 and \$1,110 starting January 2014. Respondent discovered petitioner started receiving Social Security Retirement Income (SSRI) in

November 2013; petitioner received \$310 in November 2013 and \$315 starting December 2013.

4. On October 9, 2013 the respondent mailed petitioner a Notice of Case Action, notifying petitioner was ineligible for the Medically Needy Program.
5. On January 10, 2014 respondent determined petitioner was eligible for the Medically Needy Program. Respondent calculated petitioner's SOC as follows:

<i>December 2013</i>	
\$1,094.00	petitioner's husband SSDI
+\$ 315.00	petitioner's SSRI
<hr/>	
\$1,409.00	total household income
-\$ 20.00	unearned income disregard
-\$ 241.00	medically income limit (MNIL) for a household size of two
<hr/>	
\$1,148.00	SOC for December 2013

<i>January 2014 and ongoing</i>	
\$1,110.00	petitioner's husband SSDI
+\$ 315.00	petitioner's SSRI
<hr/>	
\$1,425.00	total household income
-\$ 20.00	unearned income disregard
-\$ 241.00	medically income limit (MNIL) for a household size of two
<hr/>	
\$1,164.00	SOC for January 2014 and ongoing

6. Respondent mailed petitioner a Notice of Case Action, dated January 10, 2014, notifying petitioner she was enrolled in the Medically Needy Program with a \$1,148 SOC for December 2013 and \$1,164 SOC January 2014 and ongoing.
7. Petitioner did not dispute the SS income amounts. Petitioner explained she started receiving SSRI in November 2013 and her Medicaid was terminated in September 2013.
8. Respondent agreed that the Department erred by terminating Medicaid on September 31, 2013 and agreed to authorize Medicaid for October 2013; and Medically Needy for November 2013.

9. Petitioner refused Medicaid for October 2013 and Medically Needy for November 2013 because those months have already passed. Petitioner stated the Medically Needy Program with a SOC is of no value to her and wants Medicaid back.

CONCLUSIONS OF LAW

10. The Department of Children and Families, Office of Appeal Hearings has jurisdiction over the subject matter of this proceeding and the parties, pursuant to Fla. Stat. § 409.285. This order is the final administrative decision of the Department of Children and Families under Fla. Stat. § 409.285.

11. This proceeding is a de novo proceeding pursuant to Fla. Admin. Code § 65-2.056.

12. In accordance with Fla. Admin. Code § 65-2.060(1), the burden of proof was assigned to the respondent.

13. Fla. Admin. Code § 65A-1.713, SSI-Related Medicaid Income Eligibility Criteria states in part:

(1) Income limits. An individual's income must be within limits established by federal or state law and the Medicaid State Plan. The income limits are as follows:

(a) For MEDS-AD Demonstration Waiver, income cannot exceed 88 percent of the federal poverty level after application of exclusions specified in subsection 65A-1.713(2), F.A.C...

14. The above authority explains to be eligible for full Medicaid income cannot exceed 88 percent of the federal poverty level.

15. Fla. Admin. Code § 65A-1.716 identifies \$1,138 as the 88 percent federal poverty level for a family size of two. Petitioner and her husband's income (\$1,409 in December 2013 and \$1,425 January 2014 and ongoing) exceeds \$1,138; therefore, petitioner is not eligible for full Medicaid.

16. The Fla. Admin. Code R 65A-1.713, addresses Medically Needy and states in part:

(h) For Medically Needy, income must be less than or equal to the Medically Needy income standard after deduction of allowable medical expenses.

(4)(c) Medically Needy. The amount by which the individual's countable income exceeds the Medically Needy income level, called the "share of cost", shall be considered available for payment of medical care and services. The department computes available income for each month eligibility is requested to determine the amount of excess countable income available to meet medical costs. If countable income exceeds the Medically Needy income level the department shall deduct allowable medical expenses in chronological order, by day of service... To be deducted the expenses must be unpaid, or if paid, must have been paid in the month for which eligibility is being determined or incurred and paid during the three previous calendar months to the month for which eligibility is being determined but no earlier than the three retroactive application months...

17. The above authority explains Medically Needy provides coverage for individuals who do not qualify for full Medicaid due to income.

18. Federal Regulations at 20 C.F.R. § 416.1124 explain unearned income not counted and states in part "(c) Other unearned income we do not count... (12) The first \$20.00 of any unearned income in a month..."

19. The Fla. Admin. Code R. 65A-1.716 sets forth the Medically Needy Income Level (MNIL) at \$241.00 for a family size of two.

20. In accordance with the authorities, respondent deducted \$20.00 unearned income and \$241.00 MNIL from petitioner's household income (\$1,409 in December 2013 and \$1,425 January 2014 and ongoing) to arrive at \$1,148 SOC for December and \$1,164 for January and ongoing.

21. Petitioner argued that her Medicaid ended in September 2013 and she did not start receiving SSRI until November 2013.

22. Respondent agreed that the Department erred by ending petitioner's Medicaid on September 31, 2013 and agreed to authorize Medicaid for October 2013 and Medically Needy for November 2013. Petitioner refused Medicaid for October 2013 and Medically Needy for November 2013, because those months were in the past. Petitioner prefers full Medicaid instead of enrollment in the Medically Needy Program with a SOC.

23. After carefully reviewing the cited authorities and evidence, the undersigned concludes the respondent followed rule in enrolling petitioner in the Medically Needy Program with \$1,148 SOC for December 2013 and \$1,164 SOC for January 2014 and ongoing.

DECISION

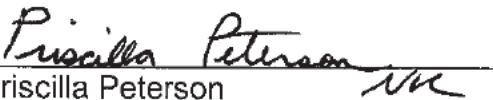
Based upon the foregoing Findings of Fact and Conclusions of Law, the appeal is denied and respondent's action affirmed.

NOTICE OF RIGHT TO APPEAL

This decision is final and binding on the part of the Department. If the petitioner disagrees with this decision, the petitioner may seek a judicial review. To begin the judicial review, the petitioner must file one copy of a "Notice of Appeal" with the Agency Clerk, Office of Legal Services, Bldg. 2, Rm. 204, 1317 Winewood Blvd., Tallahassee, FL 32399-0700. The petitioner must also file another copy of the "Notice of Appeal" with the appropriate District Court of Appeal. The Notices must be filed within thirty (30) days of the date stamped on the first page of the final order. The petitioner must either pay the court fees required by law or seek an order of indigency to waive those fees. The petitioner is responsible for any financial obligations incurred as the Department has no funds to assist in this review.

DONE and ORDERED this 31st day of March, 2014,

in Tallahassee, Florida.


Priscilla Peterson
Hearing Officer
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Copies Furnished To  Petitioner
ACCESS Keith Carpenter