

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

FILED
MAY 15 2014
OFFICE OF APPEAL HEARINGS
DEPT OF CHILDREN & FAMILIES



APPEAL NO. 13F-12198

PETITIONER,

Vs.

CASE NO. 

FLORIDA DEPARTMENT OF
CHILDREN AND FAMILIES
CIRCUIT: 06 Pinellas
UNIT: 88265

RESPONDENT.

FINAL ORDER

Pursuant to notice, the undersigned convened a telephonic administrative hearing in the above-referenced matter on May 9, 2014 at 9:59 a.m.

APPEARANCES

For the Petitioner: 

For the Respondent: Raymond Muraida, ACCESS senior human services program specialist

STATEMENT OF ISSUE

The petitioner is appealing the following.

A. The denial of full Medicaid Program benefits.

B. Enrollment in the Medically Needy Program with a monthly share of cost.

C. Denial of payment of her Medicare Part B premium.

D. No notification that she met her share of cost in September 2013, October 2013, December 2013, January 2014, February 2014, March 2014 or April 2014.

PRELIMINARY STATEMENT

On December 30, 2013, the petitioner timely requested a hearing. The hearing was scheduled for February 11, 2014 and March 26, 2014. The petitioner requested continuances for both of those dates.

Observing telephonically was Jamie Seefelt, target case manager with Directions for Living.

The petitioner did not present any exhibits into evidence. The respondent presented five exhibits which were accepted into evidence and marked as Respondent Exhibits "1" through "5" respectively.

FINDINGS OF FACT

1. The petitioner had been enrolled in a Medicaid Medically Needy Program with a monthly share of cost of \$1,100 a month. On October 22, 2013, the petitioner reapplied for Medicaid Program benefits for herself. The petitioner receives Social Security disability benefits of \$1,437 effective January 2014. The petitioner is receiving Medicare Part A, Part B and Part D. The petitioner's Medicare Part B premium is \$104.90 a month.

2. The respondent reviewed the application. The respondent used computer match information with Social Security to verify the petitioner's Social Security income. The respondent determined as follows. As the petitioner is a Medicare recipient, the petitioner was not eligible for full Medicaid Program benefits.

Her income exceeded the eligibility limits for full Medicaid Program benefits, and payment of any of the three Programs for payment of her Medicare Part B premium. On October 31, 2013, the respondent sent the petitioner a Notice of Case Action. The notice informed the petitioner that effective January 2014, her Medicaid Medically Needy Program benefits continued and her monthly share of cost would be \$1,132 a month.

3. The petitioner asserted as follows. She was receiving chemotherapy at a cost of \$800 for the medication and \$5,600 for administering the medication each time. She has not had any chemotherapy in the last two months. Her Medicare Part D is paying for her other medications. She is unable to pay medical bills up to the amount of the share of cost, and pay her other expenses. She did not receive notices authorizing Medicaid Program benefits for September 2013, October 2013, December 2013, January 2014, February 2014, March 2014 or April 2014. She submitted bills in December 2013 for November 2013 and

one bill in the amount of \$142.50 for March 2014. The petitioner asserted that she has not submitted any other bills. She has had problems submitting the bills to the respondent and thought the doctors were submitting the bills. She feels that as she is disabled and in need of medical care, she should receive full Medicaid Program benefits.

4. The respondent provided evidence of the bills submitted by the petitioner. The respondent determined that the petitioner met her share of cost for November 2013, and opened the petitioner's Medicaid for November 2013. The respondent determined that the bill in the amount of \$142.50 does not meet the petitioner's share of cost of \$1,132 for March 2014. As the petitioner did not meet her share of cost for the months of September 2013, October 2013, December 2013, January 2014, February 2014, March 2014 or April 2014, no notice were sent authorizing Medicaid Program benefits.

CONCLUSIONS OF LAW

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

6. This proceeding is a de novo proceeding pursuant to Fla. Admin. Code R. 65-2.056.

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

A. As to the issue of the denial of full Medicaid Program benefits.

8. The full disability-related Medicaid category under the MEDS-AD is described in the Florida Administrative Code Rule at 65A-1.701. It states:

(20) MEDS-AD Demonstration Waiver: Medicaid coverage group for aged or disabled individuals who meet all SSI-related Medicaid non-financial eligibility criteria, whose resources do not exceed the limit in the

Medically Needy Program, whose income is at or below 88 percent of the federal poverty level and are **not receiving Medicare**...(emphasis added)

9. Income budgeting for MEDS-AD is set forth in Fla. Admin.

Code R. 65A-1.713. It states:

- (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. (2) Included and Excluded Income. For all SSI-related coverage groups the department follows the SSI policy specified in 20 C.F.R. 416.1100, et seq...
 - (4) Income Budgeting Methodologies. To determine eligibility SSI budgeting methodologies are applied except where expressly prohibited by 42 U.S.C. §1396, or another less restrictive option is elected by the state under 42 U.S.C. §1396a(r)(2)...

10. The Fla. Admin. Code R 65A-1.716, Income and

Resource Criteria, sets forth:

- (1) The monthly federal poverty level figures based on the size of the filing unit are as follows...size one...\$843...
- (2) Medicaid income and payment eligibility standards and Medically Needy income levels are by family size

as follows...Family Size...1...Monthly Income Level...\$180...

11. The maximum income for MEDS-AD (full Medicaid) is 88 percent of the federal poverty level. The ACCESS Program Policy Manual at Appendix A-9 indicates that 88 percent of the poverty level for an assistance group of one was \$843 and increased to \$856 effective April 2014.

12. The hearing officer did consider the petitioner's testimony that she is disabled, needs medical care, and she does not have the funds to pay bills after the share of cost is met. The rule indicates that full Medicaid Program benefits are available to those not receiving Medicare. As the petitioner is receiving Medicare, the petitioner is not eligible for full Medicaid Program benefits. Additionally, the petitioner's income of \$1,437 effective January 2014, exceeds the full Medicaid Program income limits. A review of the rules and regulations did not find any exception to the eligibility criteria or for meeting the income limits for the Program. It is concluded that the respondent's action to deny the

petitioner full Medicaid Program benefits was within the rules of the Program.

B. As to the issue of her enrollment in the Medically Needy Program with a monthly share of cost.

13. The petitioner is eligible for enrollment in a Medicaid Medically Needy Program with a share of cost. The income calculation for Medically Needy Program benefits is set forth in the Fla. Admin. Code R. 65A-1.713: "(h) For Medically Needy, income must be less than or equal to the Medically Needy income standard after deduction of allowable medical expenses."

14. The ACCESS Program Policy Manual at passage 2440.0102, Medically Needy Income Limits (MSSI) states:

When the assistance group has met the technical eligibility criteria and the asset limits, it is enrolled. There is no income limit for enrollment. The assistance group is income eligible (entitled to Medicaid) once income is less than or equal to the Medically Needy Income Level (MNIL) or medical bills equal the amount by which his income exceeds the MNIL. Once medical bills are equal to this surplus income, referred to as share of cost, the assistance group is eligible.

The eligibility specialist must determine eligibility for Medically Needy any time the assistance group's income exceeds the income limits for another full Medicaid Program...

15. Federal Regulations at 20 C.F.R. § 416.1124 (c) (12), Unearned Income we do not count, states in part, "The first \$20 of any unearned income in a month..."

16. The determination of the share of cost is the gross income, less the Medically Needy Income Level of \$180, a \$20 standard deduction, and any medical insurance deduction. The petitioner's income of \$1,437 less the Medically Needy Income Level of \$180, the \$20 standard deduction, and less the petitioner's Medicare Part B premium of \$104.90 indicates a share of cost of \$1,132 a month. A review of the rules did not find any exception to this formula. It is concluded that the respondent's actions to enroll the petitioner in a Medicaid Medically Needy Program and to determine a share of cost of \$1,132 effective January 2014 were within the rules of the Program.

C. As to the issue of the denial of payment of her Medicare

Part B premium.

17. Income limits for the Qualifying Medicare Beneficiary (QMB), Special Low-Income Medicare Beneficiary (SLMB) and Qualified Individual 1 (QI1) are set forth in the Fla. Admin. Code R. 65A-1.713. It states:

(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:

(b) For QMB, income must be less than or equal to the federal poverty level after application of exclusions specified in subsection 65A-1.713(2), F.A.C...

(g) For SLMB, income must be greater than 100 percent of the federal poverty level but less than 120 percent of the federal poverty level....

(j) For a Qualified Individual 1 (QI1), income must be greater than 120 percent of the federal poverty level, but equal to or less than 135 percent of the federal poverty level. QI1 is eligible only for payment of the Part B Medicare premium through Medicaid.

(2) Included and Excluded Income. For all SSI-related coverage groups the department follows the SSI policy specified in 20 C.F.R. 416.1100, et seq...

(4) Income Budgeting Methodologies. To determine eligibility SSI budgeting methodologies are applied except where expressly prohibited by 42 U.S.C.

§1396, or another less restrictive option is elected by the state under 42 U.S.C. §1396a(r)(2)...

18. The petitioner's gross monthly income is considered in the calculation. The \$104.90 the petitioner's pays for her Medicare Part B and her medical bills are not deductions in the Medicare Buy-In Program budget.

19. The highest income limit is for the QI1 Program benefits. The ACCESS Program Policy Manual at Appendix A-9 sets forth that the maximum income for QI1 eligibility for an individual is \$1,313 a month.

20. The \$20 described in the above federal regulation is also a deduction in eligibility determination for QI1 Program benefits. The petitioner's monthly gross income of \$1,437 less the \$20 disregard is a monthly countable income of \$1,417. The petitioner's monthly countable income of \$1,417 exceeded the Program eligibility standard of \$1,313 for QI1 benefits. A review of the rules did not find any exceptions to this formula. It is concluded the respondent's denial the petitioner's application for

payment of her Medicare Buy-in premium was within the rules of the Program.

D. As to the issue of no notification that she met her share of cost in September 2013, October 2013, December 2013, January 2014, February 2014, March 2014 or April 2014.

21. The Fla. Admin. Code R. 65A-1.713 sets forth:

(c) Medically Needy. The amount by which the individual's 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...

22. The evidence demonstrated that the petitioner submitted bills in December 2013 for November 2013 and one bill in the amount of \$142.50 for March 2014. The petitioner has not submitted any other bills. The petitioner met her share of cost for November 2013, and the respondent opened the petitioner's Medicaid for November 2013. The bill of \$142.50 did not meet the petitioner's share of cost of \$1,132 for March 2014. It is

concluded that the petitioner has not met her share of cost for the months of September 2013, October 2013, December 2013, January 2014, February 2014, March 2014 or April 2014. As the petitioner did not meet her share of cost in those months, she would not have received a notice authorizing Medicaid for those months. The respondent asserted they would review any medical bill that the petitioner would submit to meet the share of cost. The petitioner is encouraged to submit all of her medical bills.

DECISION

Based upon the foregoing Findings of Fact and Conclusion of Law, the appeal is denied.

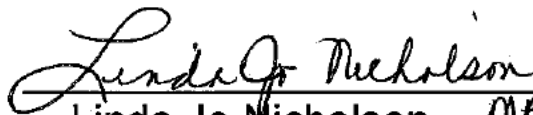
NOTICE OF RIGHT TO APPEAL

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 15th day of May, 2014,

in Tallahassee, Florida.



Linda Jo Nicholson *MP*

Hearing Officer

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