

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

FILED

APR 11 2014

OFFICE OF APPEAL HEARINGS
DEPT OF CHILDREN & FAMILIES



APPEAL NO. 14F-00429

PETITIONER,
Vs.

CASE NO. 


FLORIDA DEPARTMENT OF
CHILDREN AND FAMILIES
CIRCUIT: 20 Lee
UNIT: 88287

RESPONDENT.
_____ /

FINAL ORDER

Pursuant to notice, the undersigned convened a telephonic administrative hearing in the above-referenced matter on March 7, 2014, at 11:33 a.m.

APPEARANCES

For the Petitioner: 

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

STATEMENT OF ISSUE

The petitioner is appealing the following

A. The denial of full Medicaid Program benefits effective November 2013.

B. The denial of enrollment in the Medically Needy Program for November 2013 and December 2013.

C. Enrollment in the Medically Needy Program with the monthly share of cost of \$425.

PRELIMINARY STATEMENT

By notice January 9, 2014, the respondent informed the petitioner that he was denied full Medicaid Program benefits; he was denied Medicaid Medically Needy benefits for November 2013 and December 2013, and he was enrolled in a Medicaid Medically Needy Program with a share of cost of \$425 effective January 2014. On January 16, 2014, the petitioner timely requested a hearing.

The respondent presented nine exhibits which were accepted into evidence and marked as Respondent Exhibits "1" through "9", respectively. The record was left open until March 14, 2014 for additional evidence. On March 11, 2014, the petitioner presented two exhibits which were accepted into evidence and marked as Petitioner Exhibits "1" and "2". On March 11, 2014, respondent presented four exhibits which were accepted into evidence and marked as Respondent Exhibits "10" through "13", respectively. On March 14, 2014, respondent presented one exhibit which was accepted into evidence and marked as Respondent Exhibits "14". The record closed March 14, 2014.

FINDINGS OF FACT

1. On December 9, 2013, the petitioner applied for Medicaid Program benefits for himself. The petitioner was receiving Food Assistance Program benefits. He was not receiving any Medicaid Program benefits. A prior application for Medicaid Program benefits was denied, as the petitioner's assets were over the asset limit. On the application, he indicated monthly income from Social Security, expenses, and assets of

a \$600 savings account and a \$450 checking account. The petitioner is receiving Medicare.

2. The respondent reviewed the application. The respondent used computer match information with Social Security to verify the petitioner's monthly Social Security income of \$615 in 2013 with an increase to \$625 effective January 2014.

3. The respondent determined that as the petitioner was receiving Medicare, he was not eligible for full Medicaid Program benefits. The respondent explored the petitioner's eligibility for Medicaid Medically Needy benefits and Qualifying Medicare Beneficiary (QMB) benefits for payment of the petitioner's Medicare Part B premium.

4. Based on computer match information, the respondent discovered that the petitioner had two joint bank accounts with [REDACTED] with balances of \$35 and \$7,532.60. The respondent determined that the petitioner's assets of \$7,567.60 exceeded the asset limits of \$5,000 for Medicaid Medically Needy Program benefits, and the petitioner was not eligible for Medicaid Medically Needy Program benefits for the months of November 2013 and December 2013.

5. The respondent determined that the bank accounts were spent down below the asset limit as of January 2014. The respondent enrolled the petitioner in the Medically Needy Program effective January 2014. The respondent calculated the share of cost. The respondent used the 2014 monthly Social Security income of \$625, less a \$20 deduction, less a Medically Needy Income Level (MNIL) for a group of one of \$180, for a monthly share of cost of \$425.

6. On January 9, 2014, the respondent sent the petitioner a Notice of Case Action informing the petitioner that he was denied full Medicaid Program benefits; he

was denied Medically Needy benefits for November 2013 and December 2013, and he was enrolled in a Medicaid Medically Needy Program with a share of cost of \$425 effective January 2014.

7. The respondent determined that the petitioner was eligible for QMB Program benefits.

8. The petitioner asserted as follows. He cannot afford a \$425 share of cost based on his expenses. He used the funds in the bank accounts in October 2013. His assets were below the asset limit as of November 2013. The petitioner submitted copies of his bank accounts showing a beginning balance effective November 7, 2013 of \$16.80 in Wells Fargo account ending 3600, and \$1,056.30 in the Capital One account ending 1376.

9. The respondent reviewed the petitioner's case and the bank statements he submitted on December 16, 2013 for the application. The balance for the Capital One account ending 1376 was \$1,056.30 on November 6, 2013, \$641 on December 5, 2013, and \$521 on December 15, 2013. The balance for the Capital One account ending 8353 was \$521 on December 15, 2013. The respondent determined that the petitioner's assets were below the asset limit effective November 2013.

10. The respondent determined that as the petitioner was receiving Medicare he remained ineligible for full Medicaid Program benefits. The respondent took corrective action and enrolled the petitioner in the Medicaid Medically Needy Program for November 2013 and December 2013. Using the same methodology, the respondent calculated the share of cost at \$415. The petitioner remained eligible for QMB Program benefits.

CONCLUSIONS OF LAW

11. 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.

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

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

14. The full disability-related Medicaid category under the MEDS-AD is described in the Fla. Admin. Code R. 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...

15. The hearing officer considered the petitioner's testimony that he cannot afford a share of cost based on his expenses. Effective November 2013, the petitioner's income and assets were below the limits for eligibility for a category of Medicaid Program benefits. The rule sets forth that full Medicaid Program eligibility an individual's do not exceed the asset and income limits and are not receiving Medicare. The petitioner is receiving Medicare. It is concluded that the petitioner is not eligible for full Medicaid Program benefits. The petitioner is eligible for enrollment in a Medicaid Medically Needy Program with a share of cost.

16. 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."

17. The ACCESS Program Policy Manual 165-22, 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...

18. The Fla. Admin. Code 65A-1.716(2) indicates the MNIL is \$180 for an assistance group of one.

19. The methods of determining the share of cost is set forth in the Fla. Admin. Code R. 65A-1.713. It states:

(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...

20. 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..."

21. 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 did not indicate that he was paying any medical insurance.

22. The petitioner's 2013 income of \$615 less the Medically Needy Income Level of \$180, and the \$20 standard deduction indicates a share of cost of \$415 for November 2013 and December 2013. The petitioner's 2014 income of \$625 less the Medically Needy Income Level of \$180, and the \$20 standard deduction indicates a share of cost of \$625 effective January 2014. A review of the rules and regulations did not find any exception to this formula. It is concluded that the petitioner's share of cost was \$415 effective November 2013 and \$425 effective January 2014.

23. It is concluded that the petitioner is not eligible for full-Medicaid Program benefits. The respondent has already taken corrective action to enroll the petitioner in Medicaid Medically Needy Program for November 2013 and December 2013.

DECISION

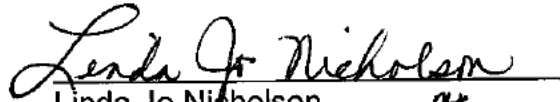
Based upon the foregoing Findings of Fact and Conclusion of Law, the appeal is denied.

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 11th day of April, 2014,

in Tallahassee, Florida.



Linda Jo Nicholson *LLJ*
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