

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

**FILED**

APR 08 2014

OFFICE OF APPEAL HEARINGS  
DEPT OF CHILDREN & FAMILIES



APPEAL NO. 14F-00436

PETITIONER,

Vs.

CASE NO. 

FLORIDA DEPT OF CHILDREN AND FAMILIES  
CIRCUIT: 13 Hillsborough  
UNIT: 883DT

RESPONDENT.

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**FINAL ORDER**

Pursuant to notice, an administrative hearing was convened before the undersigned hearing officer on March 27, 2014, at 2:42 p.m. in Tampa Florida.

**APPEARANCES**

For the Petitioner: 

For the Respondent: Anjali Pant, senior human services program specialist with the ACCESS Program.

**ISSUE**

At issue is the respondent action of December 20, 2013 to retain the petitioner's enrollment in the Medically Needy (MN) Program with a \$1,708 monthly share of cost (SOC).

### **PRELIMINARY STATEMENT**

On January 17, 2014, the petitioner requested a hearing to challenge the respondent action at issue. The hearing was convened as an in person hearing in Tampa, Florida per the petitioner's request. All parties appeared in person for the scheduled hearing. The respondent offered 10 exhibits which were entered as Respondent Exhibits 1 through 10. No exhibits were offered or entered as Petitioner exhibits.

### **FINDINGS OF FACT**

1. The Petitioner's assistance group consists of himself and his wife. He is 64 years old with a date of birth [REDACTED]. His wife is also 65 years old with a date of birth [REDACTED]. There are no minor children living in the home.
2. The Petitioner currently receives Social Security Disability Income (SSDI) of \$1,279 monthly. His wife receives Social Security income of \$661 monthly and Supplemental Security Income (SSI) income of \$29.25 monthly. Part B Medicare premiums are paid by a Respondent program.
3. The Respondent has approved the Petitioner for enrollment in the MN Program with a \$1,708 monthly SOC. The Petitioner seeks a significantly reduced share of cost amount.
4. To determine the petitioner's share of cost, the respondent subtracted a \$20 general disregard and a \$241 Medically Needy Income Limit (MNIL) from the assistance group's combined \$1,969.25 income to arrive at the \$1,708 monthly SOC amount.
5. The petitioner asserts that he has a high cost of living and does not believe the SOC amount is fair. He pays for doctor visits and co-pay amounts.

**CONCLUSIONS OF LAW**

6. 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.

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

8. The burden of proof is assigned to the Petitioner in accordance with Fla. Admin. Code § 65-2.060(1) since the Petitioner challenges his current SOC amount.

9. Fla. Admin. Code 65A-1. 701, Definitions, defines the full Medicaid Program for either a disabled or aged adult with income at or below 88 percent of the federal poverty level and 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 or if receiving Medicare are also eligible for Medicaid covered institutional care services, hospice services or home and community based services.

10. The Department's Program Policy Manual, 165-22, Appendix A-9 sets forth the income limits of 88 percent of the federal poverty level for an individual or couple who is aged or disabled to receive full Medicaid with no SOC. The income limit for the MEDS-AD program is currently at \$856 for an individual or \$1,154 for a couple. If countable income exceeds the applicable amount, the Department is correct to enroll the petitioner in the Medically Needy Program with a SOC.

11. The Fla. Admin. Code R. 65A-1.713(1) establishes income limits for various SSI-Related Medicaid programs. The petitioner's and his wife's combined Social Security and SSI income amount of \$1,969 is used to determine eligibility in the SSI-Related Medicaid Programs in accordance with Fla. Admin. Code. R. 65A-1.713(4)(a).

12. Fla. Admin. Code R. 65A-1.702(13) sets forth the following regarding the SOC amount applicable to the SSI-Related Medicaid Medically Needy (MN) Program, "(13) Determining Share of Cost (SOC). The SOC is determined by deducting the Medically Needy income level from the individual's or family's income."

13. With regard to the SOC determination, Fla. Admin. Code R. 65A-1.713(4)(c) contains the following excerpt:

(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. If countable income exceeds the Medically Needy income level the department shall deduct allowable medical expenses in chronological order, by day of service. Countable income is determined in accordance with subsection 65A-1.713(2), F.A.C.

14. Federal Regulations at 20 C.F.R. 416.1124(c)(12) sets forth income that is not counted in this program and states, "The first \$20 of any unearned income in a month other than...income based on need."

15. The respondent's Program Public Policy Manual, 165-22, at section 2440.0102 contains language that describes the Medically Needy Income Limit, as follows:

**2440.0102 Medically Needy Income Limits (MSSI)**

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. Refer to Appendix A-7 for the Medically Needy income limits.

16. Appendix A-7 of the respondent's referenced manual shows the Medically Needy Income Level (MNIL) to be \$241 for a two-person family size or assistance group. The petitioner's and his wife's countable Social Security and SSI income of \$1,969 exceeds the two-person \$241 Medically Needy Income Level. According to the above authorities, the respondent is correct to determine the \$1,708 monthly SOC amount. This amount is correct after subtracting the \$20 monthly unearned disregard and the \$241 MNIL for two persons. Since the amount remaining after subtraction of the \$20 monthly income disregard exceeds \$1,154 monthly, the respondent is correct to determine that petitioner is not eligible for full Medicaid benefits without a SOC. No other authorities are found to permit any further reduction of the SOC amount due to other circumstances or household expenses.

17. The petitioner is referred to Hillsborough County Social Services to inquire of any assistance with his medical needs prior to meeting the SOC. Petitioner is reminded to forward all medical bills to the Department so that the Department can determine when the SOC is met.

**DECISION**



The appeal is denied. The hearing officer cannot conclude the petitioner to be eligible for Medicaid benefits without a SOC amount, nor any more favorable SOC amount.


**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 First District Court of Appeal in Tallahassee, Florida, or with the District Court of Appeal in the district where the party resides. 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 Department has no funds to assist in this review, and any financial obligations incurred will be the petitioner's responsibility.

DONE and ORDERED this 8<sup>th</sup> day of April, 2014,

in Tallahassee, Florida.

  
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Copies Furnished To  Petitioner  
Roseann Liriano, Suncoast Region