

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

FILED

APR 21 2014

OFFICE OF APPEAL HEARINGS
DEPT. OF CHILDREN & FAMILIES



APPEAL NO. 14F-00776

PETITIONER,

Vs.

CASE NO. 

FLORIDA DEPARTMENT OF
CHILDREN AND FAMILIES
CIRCUIT: 17 Broward
UNIT: 88239

RESPONDENT.

FINAL ORDER

Pursuant to notice, the undersigned telephonically convened an administrative hearing in the above-referenced matter at 2:00 p.m. on March 7, 2014.

APPEARANCES

For the Petitioner:  pro se

For the Respondent: Donald Young, ESSSII Senior Worker Access

STATEMENT OF ISSUE

At issue is the Department's action to enroll petitioner in the Medically Needy Program with a Share of Cost (SOC). Petitioner is seeking full Medicaid.

PRELIMINARY STATEMENT

By notice dated January 6, 2014, the respondent notified petitioner she was enrolled in the Medically Needy Program with an estimated \$868 SOC, effective February 2014. Petitioner timely requested a hearing to challenge the amount of her share of cost in the Medically Needy Program.

Nathan Koch, with the Office of Appeal Hearings, appeared as an observer. Petitioner submitted two exhibits into evidence, entered as Petitioner Exhibits "1" and "2". Respondent submitted six exhibits, entered as Respondent Exhibits "1" through "6". The record was closed on March 7, 2014.

FINDINGS OF FACT

1. The petitioner submitted an application for recertification of food assistance, family-related Medicaid and adult-related Medicaid on December 6, 2013. Petitioner indicated she was disabled.
2. The petitioner completed an interview on January 3, 2014.
3. The notice of case action was issued on January 6, 2014 informing petitioner her estimated SOC was reduced to \$868 effective February 1, 2014.
4. The petitioner is a 29 years old disabled adult. Her eight year old daughter resides with her and is receiving full Medicaid. As part of the eligibility determination process for Medicaid, the Department must consider the petitioner's income. Because the Department now realized petitioner is disabled, the SOC was reduced in accordance with policy for the Medicaid programs for the aged or disabled.

5. The petitioner received gross Social Security Disability (SSDI) in the amount of \$1052 beginning May 2013. This amount increased beginning January 2014 to \$1068. Respondent determined petitioner was not eligible for full Medicaid because her gross income of \$1,068 SSDI exceeds the \$843 full Medicaid income limit. Respondent determined petitioner eligible for the Medically Needy Program with a SOC.

Respondent calculated petitioner's SOC amount as follows:

\$1,068.00	petitioner's SSDI
-\$ 20.00	unearned income disregard
-\$ 180.00	<u>Medically Needy Income limit for an individual</u>
\$ 868.00	SOC

6. The petitioner does not disagree with the income received but believes she is entitled to full Medicaid coverage. The petitioner explains she needs her Medicaid because she requires five liters of oxygen per day and that she does not incur the share of cost amount per month to meet that amount. Petitioner does not understand how an exception cannot be made to open her full Medicaid for her to get oxygen as oxygen is required to live. Petitioner states she is admitted to the hospital once a month as she cannot afford her oxygen and believes it would be cheaper on the state's behalf if full Medicaid was authorized.

CONCLUSIONS OF LAW

7. 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.

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

9. The burden of proof is assigned to the petitioner in accordance with Fla. Admin. Code R. 65-2.060 (1).

10. Pursuant to Fla. Admin. Code 65A-1.701 Definitions states in part:

(30) Share of Cost (SOC): SOC represents the amount of recognized medical expenses that a Medically Needy enrolled individual or family must be responsible to pay each month before becoming eligible to receive Medicaid benefits for the remainder of the month."

Florida Administrative Code 65A-1.702 Special Provisions states in part:

(13) Determining Share of Cost. The SOC is determined by deducting the Medically Needy income level from an individual's or family's income.

11. Fla. Admin. Code 65A-1.710 SSI-Related Medicaid Coverage Groups states in part, "(5) Medically Needy Program. A Medicaid coverage group, as allowed by 42 U.S.C. §§ 1396a and 1396d, for aged, blind or disabled individuals (or couples) who do not qualify for categorical assistance due to their level of income or resources."

12. 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. ... (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 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.

13. The above authority explains to be eligible for full Medicaid (MEDS-AD) income cannot exceed 88 percent of the federal poverty level.

14. The Fla. Admin. Code § 65A-1.716 Income and Resource Criteria, sets forth \$843 (prior to January 2014) as 88% of the federal poverty level and the Medically Needy Income Limit at \$180 for an individual. The Department's Program Policy Manual, 165-22, Appendix A-9 sets forth 88% of the federal poverty level at \$856 effective April 2014.

15. Petitioner's SSDI of \$1,068 exceeds 88% of the federal poverty level. In accordance with the above authority, petitioner is not eligible for full Medicaid.

16. After considering the evidence, the Florida Administrative Code Rules and all of the appropriate authorities set forth above, the hearing officer concludes the Department's action to enroll the petitioner in the SSI-Related Medically Needy Program with a share of cost amount of \$868 starting February 2014 is correct.

17. The petitioner will need to provide medical bills to the Department on an ongoing basis to determine when the SOC is met. Bills can be faxed to (855) 417-7203.

DECISION

Based upon the foregoing Findings of Fact and Conclusions of Law, the appeal is denied and the Department's action is 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 21st day of April, 2014,

in Tallahassee, Florida.



Brandy Ricklefs
Hearing Officer
Building 5, Room 255
1317 Winewood Boulevard
Tallahassee, FL 32399-0700
Office: 850-488-1429
Fax: 850-487-0662
Email: Appeal_Hearings@dcf.state.fl.us

Copies Furnished To: [REDACTED] Petitioner
10 DPOES: Lisa Henson