

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

FILED

FEB 24 2015

OFFICE OF APPEAL HEARINGS
DEPT OF CHILDREN & FAMILIES

APPEAL NO. 14F-08873

PETITIONER,

Vs.

CASE NO. [REDACTED]

FLORIDA DEPT OF
CHILDREN AND FAMILIES
CIRCUIT: 07 Volusia
UNIT: 88781

RESPONDENT.

FINAL ORDER

Pursuant to notice, the undersigned convened an administrative hearing in the above-referenced matter on January 22, 2015 at 12:30 p.m. in Daytona Beach, Florida.

APPEARANCES

For the Petitioner: [REDACTED] pro se

For the Respondent: Matthew Lynn, Economic Self-Sufficiency Specialist II,
appeared telephonically

STATEMENT OF ISSUE

Petitioner is appealing the Department's action to enroll him in the Medically Needy Program with a Share of Cost (SOC) of \$1,696.00 as he is seeking full Medicaid benefits.

PRELIMINARY STATEMENT

By notice dated September 17, 2014, the respondent notified the petitioner that he was enrolled in the Medically Needy Program with a \$1,623.00 SOC effective

October 1, 2014. The respondent sent another notice to the petitioner on November 20, 2014 informing him that his SOC was increasing from \$1,623.00 to \$1,634.00 effective December 1, 2014. On January 22, 2015, the respondent sent a third notice to the petitioner notifying him that his SOC was increasing from \$1,634.00 to \$1,696.00 effective March 1, 2015. The petitioner timely requested this administrative hearing to challenge the respondent's actions.

Stephanie Ross, Economic Self Sufficiency Specialist II, appeared as an observer.

The petitioner did not submit any evidence. The respondent submitted four exhibits which were accepted into evidence and marked as Respondent Exhibits "1" through "4" respectively. The record was held open through January 26, 2015 for the respondent to supplement the record. The respondent timely submitted the additional evidence which was accepted into evidence and marked as Respondent Exhibits "5" through "8" respectively. The record closed on January 26, 2015.

FINDINGS OF FACT

1. The petitioner's household includes the petitioner (57) and his wife (54).
2. The petitioner is disabled and was receiving Supplemental Security Income (SSI) benefits along with full Medicaid benefits through April 2014. After the petitioner stopped receiving SSI benefits he started receiving \$1,014.00 per month in Social Security Disability Benefits (SSDI). The petitioner's SSDI benefits increased to \$1,031.00 effective January 1, 2015.
3. On August 8, 2014, the respondent received a request to complete a determination regarding the petitioner's Medicaid eligibility since his SSI benefits had ended.

4. In addition to the above income, the petitioner works a few hours per week when work is available and he is paid every two weeks. He provided his pay check from December 9, 2014 in the gross amount of \$45.65. The respondent calculated his monthly income as \$91.30 ($\45.65×2).
5. The petitioner's wife is also employed and provided verification of her income. The respondent calculated her monthly income as \$1,827.06 based on the pay checks she had provided.
6. The income limit for an aged/disabled couple to receive full Medicaid is \$1,175.00. The petitioner's and his wife's combined countable income of \$1,937.68 ($\$1,011.00 + \926.68) exceeds this amount; therefore, the respondent enrolled the petitioner in the Medically Needy Program.
7. The respondent calculated his Medically Needy budget and determined his \$1,696.00 SOC as follows:

Total unearned income (petitioner's SSDI)	\$1,031.00
<u>Unearned income disregard</u>	<u>-\$ 20.00</u>
Countable Unearned Income	\$1,011.00
Total earned income ($\$1,827.06$ wife's income + $\$91.30$ petitioner's income)	\$1,918.36
Earned income disregard	-\$ 65.00
<u>½ Remaining disregard</u>	<u>-\$ 926.68</u>
Countable Earned Income	\$ 926.68
Countable Earned Income	\$ 926.68
<u>Countable Unearned Income</u>	<u>\$1,011.00</u>
Total Countable Income	\$1,937.68
Total countable income	\$1,937.68
<u>Medically Needy Income Limit (MNIL)</u>	<u>-\$ 241.00</u>
Share of Cost (SOC)	\$1,696.00

8. The respondent informed the petitioner how the Medically Needy Program works and advised him to submit his unpaid medical bills every month so they can determine if he meets his SOC.
9. The petitioner expressed concern that he will not be able to meet his SOC every month because the amount is so high. He explained he needs to have two surgeries but the doctors won't treat him without a Medicaid card. He asserted he needs full Medicaid in order to get the medical care he needs.

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 R. 65-2.056.
12. In accordance with Fla. Admin. Code R. 65-2.060(1), the burden of proof was assigned to the respondent.
13. Fla. Admin. Code R. 65A-1.701 defines spouse as "a person's husband or wife as defined at 20 C.F.R. § 416.1806."
14. Fla. Admin. Code R. 65A-1.702, Special Provisions, outlines the ex parte process and states in relevant part:

- ...
- (4) Ex Parte Process.
 - (a) When a recipient's eligibility for Medicaid ends under one or more coverage groups, the department must determine their eligibility for medical assistance under any other Medicaid coverage group(s) before

terminating Medicaid coverage. Both family-related Medicaid and SSI-related Medicaid eligibility are determined based on available information. If additional information is required to make an ex parte determination, it can be requested from the recipient, or, for SSI-related Medicaid eligibility, from the recipient or from Social Security Administration.

15. Fla. Admin. Code R. 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. The program does not cover nursing facility care, intermediate care for the developmentally disabled services, or other long-term care services.

16. Fla. Admin. Code R. 65A-1.713 defines the income limits for SSI - Related Medicaid programs:

(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.

...
(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 (2007) (incorporated by reference) et seq., including exclusionary policies regarding Veterans Administration benefits such as VA Aid and Attendance...

17. The ACCESS Florida Program Manual at 2640.0500, Share of Cost (MSSI) sets forth:

The eligibility specialist must determine eligibility for Medically Needy any time the assistance group's assets and/or income exceeds the appropriate

categorical asset/income limits. The eligibility specialist determines whether the assistance group's assets are within the Medically Needy asset limits and whether the assistance group members meet the technical factors. If the Medically Needy asset limit is met and the assistance group meets all technical factors, the eligibility specialist determines the amount of countable income and computes a budget using the MNIL which is the same for both family and SSI-Related Medicaid coverage groups (refer to Appendix A-7).

If income is equal to or less than the MNIL, there is no share of cost and the individual is eligible. Medicaid is authorized for individuals who are eligible without a share of cost.

If income is greater than the MNIL, share of cost is determined for appropriate members. Appropriate members are enrolled but cannot be eligible until the share of cost is met.

18. The Code of Federal Regulations 20 C.F.R. § 416.1124 defines unearned income that is not counted in SSI – Related Medicaid programs:

...
(C)(12) The first \$20 of any unearned income in a month other than income in the form of in-kind support and maintenance received in the household of another (see §416.1131) and income based on need. Income based on need is a benefit that uses financial need as measured by your income as a factor to determine your eligibility.

19. Federal Regulations 20 C.F.R. § 416.1112(c)(5) establishes a "\$65 earned income in a month" disregard.

20. The ACCESS Florida Program Manual at 2440.0321, Earned Income Disregard (MSSI, SFP) states "the earned income disregard is only applied to earned income. The amount of the disregard is \$65 plus one half of the remaining earned income."

21. Fla. Admin. Code R. 65A-1.713 sets forth the Income Budgeting Methodologies for the Medically Needy Program:

...
(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.

22. The ACCESS Florida Program Policy Manual Appendix A-9 shows the Eligibility Standards for the following relevant SSI – Related Medicaid Programs effective January 2015:

Coverage Group	Income Limit
MEDS-AD/ICP-MEDS/Couple	\$1,175

23. The SSI-Related Programs – Financial Eligibility Standards show the Medically Income Level (MNIL) for a couple is \$241.00.

24. The authority cited sets forth the income limits for full Medicaid as well as the rules for enrollment and budgeting methodologies for the Medically Needy Program. As the petitioner's total countable income of \$1,937.68 exceeds the income limit for full Medicaid (\$1,175.00), the undersigned concludes that the respondent correctly evaluated the petitioner for the Medically Needy Program and determined his SOC to be \$1,696.00.

DECISION

Based upon the foregoing Findings of Fact and Conclusions 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 24th day of February, 2015,

in Tallahassee, Florida.


Karina A. Sanchez
Hearing Officer
Building 5, Room 255
1317 Winewood Boulevard
Tallahassee, FL 32399-0700
Office: 850-488-1429
Fax: 850-487-0662
Email: Appeal.Hearings@myflfamilies.com

Copies Furnished To: [REDACTED] Petitioner
Office of Economic Self Sufficiency