

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

**FILED**  
FEB 06 2015

OFFICE OF APPEAL HEARINGS  
DEPT. OF CHILDREN & FAMILIES



PETITIONER,

APPEAL NO. 14F-08906

Vs.

CASE NO. 


FLORIDA DEPT OF  
CHILDREN AND FAMILIES  
CIRCUIT: 09 Orange  
UNIT: 66292

RESPONDENT.

FINAL ORDER

Pursuant to notice, the undersigned telephonically convened an administrative hearing in the above-referenced matter on November 24, 2014 and reconvened on January 8, 2015 at 3:30 p.m.

APPEARANCES

For the petitioner:  pro se

For the respondent: Sigfredo Plaza, ACCESS supervisor

STATEMENT OF ISSUE

At issue was whether respondent's action to enroll petitioner in the Medically Needy Program was correct. The petitioner is seeking full Medicaid for herself.

PRELIMINARY STATEMENT

On October 13, 2014, the respondent notified the petitioner she is enrolled in the Medically Needy Program. The petitioner timely requested a hearing to challenge

enrollment in the Medically Needy Program on the basis that she wanted full Medicaid Assistance.

Petitioner did not present any exhibits. The respondent presented seven exhibits, which were accepted into evidence and marked as Respondent Exhibits "1" through "7" respectively.

**FINDINGS OF FACT**

1. On September 29, 2014, petitioner applied for Medicaid Assistance and Food Assistance Programs for herself and children (ages 16, 11 and 3). The childrens' Medicaid is not at issue.
2. The application listed petitioner's earning and child support income. Petitioner submitted paystubs gross pay \$1,013.27 dated September 12, 2014 and \$501.58 dated September 26, 2014, totaling \$1,514.86.
3. On September 30, 2014, respondent conducted a phone interview with petitioner and reviewed the case. Due to the Affordable Care Act law, child support income is excluded and is not counted in the Medicaid budget.
4. The income limit for petitioner to be eligible for full Medicaid benefits for a household size of three is \$364.00. The respondent authorized full Medicaid for the three children and petitioner was enrolled in the Medically Needy Program.
5. Respondent determined petitioner's estimated share of cost to be \$929.00 for September and ongoing as follows:

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|                      |  |
|----------------------|--|
| \$1,514.86           | Petitioner's earnings  |
| <del>-\$585.00</del> | <del>medically-needy income level for standard filing unit of four</del> |
| \$929.00             | share of cost  |

6. On October 13, 2014, the Department mailed the petitioner a Notice of Case Action notifying her that she was enrolled in the Medically Needy Program with a share of cost of \$929.00.

7. Petitioner explained she has health issues (epilepsy) and needs full Medicaid to continue to treat her illness with monthly medication and to see the doctors.

Additionally petitioner explained paystub September 12, 2014 was her first paycheck that included four-week pay. This is not normal; the petitioner's pay frequency is bi-weekly.

8. The parties agreed to reconvene to allow the Department an opportunity to review the Medicaid budget. On December 16, 2014, the respondent notified the petitioner that her Medically Needy Program with a share of cost reduced from \$929.00 to \$418.00 beginning September 2014. The respondent recalculated the income and used paystub September 12, 2014 and multiplied by two totaling \$1,003.16.

9. The recalculation determined beginning September 2014 and ongoing as follows:

|                |  |
|----------------|--|
| \$1,003.16     | Petitioner's earnings  |
| <u>-585.00</u> | <u>medically needy income level for standard filing unit of four</u> |
| \$418.00       | share of cost  |

### 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 for the Medicaid Assistance Program was assigned to the petitioner being the applicant seeking assistance.

13. Fla. Admin. Code R. 65A-1.707 and 65A-1.716 list the Family-Related Medicaid Income and Resource Criteria. These authorities set forth full Medicaid coverage groups available for the household member.

14. Fla. Admin. Code R. 65A-1.707 Family-Related Medicaid Income and Resource Criteria states in part:

(1) Family-related Medicaid income is based on the definitions of income, resources (assets), verification and documentation requirements as follows.

(a) Income. Income is earned or non-earned cash received at periodic intervals from any source such as wages, self-employment, benefits, contributions, rental property, etc. Cash is money or its equivalent, such as a check, money order or other negotiable instrument. Total gross income includes earned and non-earned income from all sources.... For Medically Needy coverage groups, the amount by which the gross income exceeds the applicable payment standard income level is a share of cost as defined in Rule 65A-1.701, F.A.C. For the CNS criteria, refer to subsection 65A-1.716(1), F.A.C. For the payment standard income levels, refer to subsection 65A-1.716(2), F.A.C.

15. Fla. Admin. Code R. 65A-1.716 Income and Resource Criteria continues:

(2) Medicaid income and payment eligibility standards and Medically Needy income levels are by family size as follows:

| Family Size | Income Level |
|-------------|--------------|
| 1           | \$180        |
| 2           | \$241        |
| 3           | \$303        |
| 4           | \$364        |

16. The authority cited sets forth the income limits for full Medicaid. The undersigned concludes petitioner's total countable gross income of \$1,003.16 exceeds the income standard for a household size of four of \$364.00.

17. The Code of Federal Regulations at 42 C.F.R. § 435.310 discuss medically needy coverage of specified relatives:

(a) If the agency provides for the medically needy, it may provide Medicaid to specified relatives, as defined in paragraph (b) of this section, who meet the income and resource requirements of subpart I of this part.

(b) Specified relatives means individuals who:

(1) Are listed under section 406(b)(1) of the Act and 45 CFR 233.90(c)(1)(v)(A); and

(2) Have in their care an individual who is determined to be (or would, if needy, be) dependent, as specified in §435.510...

18. Federal Regulation at 42 C.F.R. § 435.831 Income eligibility, explains:

The agency must determine income eligibility of medically needy individuals in accordance with this section.

(b) Determining countable income. The agency must deduct the following amounts from income to determine the individual's countable income.

(1) For individuals under age 21 and caretaker relatives, the agency must deduct amounts that would be deducted in determining eligibility under the State's AFDC plan.

(c) Eligibility based on countable income. If countable income determined under paragraph (b) of this section is equal to or less than the applicable income standard under §435.814, the individual or family is eligible for Medicaid...

19. The above authority explains Medically Needy provides coverage for individuals who do not qualify for full Medicaid due to income.

20. The ACCESS Florida Program Policy Manual Appendix A-7, Family-Related Medicaid Income Limits chart sets forth a \$585.00 MNIL for a household size of four.

21. The respondent subtracted the \$585.00 MNIL from \$1,003.16 to arrive at the \$418.00 share of cost-estimated amount for the petitioner.

22. The ACCESS Florida Program Manual at 2030.1400, Medically Needy Coverage (MFAM) sets forth:

The Medical Needy Program coverage is for individuals who meet the technical requirements of the above coverage groups but whose income exceeds the income limit. If the household's income is great than the income limit, the exceeding amount is determined as the share of cost. The individual is enrolled but is not eligible until the share of cost is met. Medically Needy provides month-to-month coverage when individuals have incurred medical bills that meet their share of cost.

23. A review of the rules and regulations 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 determine a share of cost of \$418 effective September 2014 was within the rules of the Program.

#### **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 6<sup>th</sup> day of February, 2015,

in Tallahassee, Florida.

  
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