

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

**FILED**

APR 16 2014

OFFICE OF APPEAL HEARINGS  
DEPT OF CHILDREN & FAMILIES



APPEAL NO. 14F-00906

PETITIONER,

Vs.

CASE NO. 

FLORIDA DEPT OF  
CHILDREN AND FAMILIES  
CIRCUIT: 10 Highlands  
UNIT: 88586

RESPONDENT.

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**FINAL ORDER**

Pursuant to notice, the undersigned telephonically convened an administrative hearing in the above-referenced matter at 8:15 a.m. on March 24, 2014.

**APPEARANCES**

For the Petitioner:  pro se

For the Respondent: Rosalyn Neloms, ACCESS supervisor

**STATEMENT OF ISSUE**

At issue is respondent's action to enroll petitioner in the Medically Needy Program with a Share of Cost (SOC).

**PRELIMINARY STATEMENT**

By notice dated January 13, 2014 respondent notified petitioner application dated December 11, 2013 was approved and she was enrolled in the Medically Needy Program with a \$1,204 SOC. Petitioner timely requested a hearing to challenge enrollment in the Medically Needy Program.

Petitioner did not submit exhibits into evidence. Respondent submitted three exhibits into evidence, entered as Respondent Exhibits "1" through "3". The record was closed on March 24, 2014.

**FINDINGS OF FACT**

1. Prior to the action under appeal, petitioner received full Medicaid due to receiving Social Security Income (SSI). In 2013 petitioner stopped receiving SSI and started receiving Social Security Disability Income (SSDI).
2. On December 11, 2013 petitioner submitted a Medicaid application for herself.
3. Respondent verified petitioner received \$1,404 in SSDI. The income limit to be eligible for full Medicaid for one person was \$843 in December 2013. Petitioner's \$1,404 SSDI is higher than the income limit; therefore, petitioner was not eligible for full Medicaid. As a result, respondent enrolled petitioner in the Medically Needy Program with a SOC.
4. Respondent determined petitioner's SOC amount as follows:

\$1,404.00	SSD
-\$ 20.00	unearned income disregard
-\$ 180.00	medically needy income limit for one person
<hr/>	
\$1,204.00	SOC

5. On January 13, 2014 respondent mailed petitioner a Notice of Case Action notifying her application dated December 11, 2013 was approved and she was enrolled in the Medically Needy Program with a \$1,204 SOC.
6. Petitioner agreed with the SSDI amount and said she understood the calculation used to determine her SOC amount. Petitioner asserted that most doctors do not accept Medically Needy and she prefers full Medicaid.

**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 Fla. Stat.

§ 409.285. 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 § 65-2.056.

9. In accordance with Fla. Admin. Code § 65-2.060(1), the burden of proof was assigned to the respondent.

10. The 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...

(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 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. If countable income exceeds the Medically Needy income level the department shall deduct allowable medical expenses in chronological order, by day of service... To be deducted the expenses must be unpaid, or if paid, must have been paid in the month for which eligibility is being determined or incurred and paid during the three previous calendar months to the month for which eligibility is being determined but no earlier than the three retroactive application months...

11. The above authority explains to be eligible for full Medicaid income cannot exceed 88 percent of the federal poverty level. And Medically Needy provides coverage for individuals who do not qualify for full Medicaid due to income.
12. The Department's policy manual, 165-22 Appendix A- 9, identifies \$843 (effective July 2013) as 88 percent of the federal poverty level for family size of one.
13. Federal Regulations at 20 C.F.R. § 416.1124 explain unearned income not counted and states in part "(c) Other unearned income we do not count... (12) The first \$20.00 of any unearned income in a month..."
14. The Fla. Admin. Code § 65A-1.716 sets forth the Medically Needy Income Level (MNIL) at \$180 for a family size of one.
15. In accordance with the authorities, respondent deducted \$20 unearned income and \$180 MNIL from petitioner's \$1,404 SSDI to arrive at \$1,204 SOC.
16. In carefully review of the cited authorities and evidence, the undersigned concludes the respondent followed rule by enrolling petitioner in the Medically Needy Program with \$1,204 monthly SOC.

### **DECISION**

Based upon the foregoing Findings of Fact and Conclusions of Law, the appeal is denied and respondent's action 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 16<sup>th</sup> day of April, 2014,

in Tallahassee, Florida.

Priscilla Peterson  
Priscilla Peterson  
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  
14 DPOES: Rita Collins