

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

FILED

FEB 02 2015

OFFICE OF APPEAL HEARINGS
DEPT. OF CHILDREN & FAMILIES



PETITIONER,

APPEAL NO. 14F-09402
14F-09403

Vs.

CASE NO. 

FLORIDA DEPT OF
CHILDREN AND FAMILIES
CIRCUIT: 07 Volusia
UNIT: 88368

RESPONDENT.

FINAL ORDER

Pursuant to notice, the undersigned convened a telephonic administrative hearing in the above-referenced matter on December 15, 2014 at 1:00 p.m.

APPEARANCES

For the Petitioner:  pro se

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

STATEMENT OF ISSUE

Petitioner is appealing the Department's action to enroll her in the Medically Needy Program with a Share of Cost (SOC) of \$1,038.00 as she is seeking full Medicaid benefits.

Petitioner is also appealing the Department's action to terminate her Special Low Income Medicare Beneficiary (SLMB) benefits and to deny payment of the Medicare Part B premium under the Qualified Individuals 1 (QI1) Medicaid Program, or any other applicable Medicare Savings Plan (MSP) program, due to excess income.

PRELIMINARY STATEMENT

By notice dated October 23, 2014, the respondent notified the petitioner that she was enrolled in the Medically Needy Program with a SOC of \$1,234.00 effective December 1, 2014. Said letter also informed the petitioner that she was denied QI1 benefits as her "income was too high to qualify for this program." The respondent reviewed the petitioner's case and determined there was an error in her income calculation; her case was corrected and her SOC was decreased to \$1,038.00. By notice dated November 25, 2014, the respondent notified the petitioner that her SOC was decreasing from \$1,238.00 to \$1,038.00 effective January 1, 2015. Said notice also notified the petitioner that she was approved for QI1 benefits effective January 2015. The petitioner timely requested this administrative hearing to challenge the respondent's actions.

[REDACTED] the petitioner's sister and employer, appeared as a witness for the petitioner.

The petitioner did not submit any evidence. The respondent submitted five exhibits, which were accepted into evidence and marked as Respondent Exhibits "1" through "5" respectively. The record was held open until December 22, 2014 for the respondent to supplement the record. The respondent timely provided the additional information, which was accepted into evidence and marked as Respondent Exhibits "6" and "7." The record closed on December 22, 2014.

FINDINGS OF FACT

1. The petitioner's household includes the petitioner (57) only.

2. On October 3, 2014, the petitioner submitted an online application to recertify for Food Assistance and Medicaid benefits.
3. Prior to the actions under appeal, the petitioner was enrolled in the Medically Needy Program with a SOC of \$913.00 and she was approved for SLMB benefits.
4. The petitioner is disabled and receives \$916.00 per month in Social Security Disability (SSDI) benefits. She also rents out a room in her home and receives \$400.00 per month in rental income.
5. In addition to the above income, the petitioner is employed part-time and she is paid weekly. She provided verification of her gross earnings as follows: 9/17/14 - \$126.00, 9/25/14 - \$131.25, 10/2/14 - \$131.25, and 10/9/14 - \$131.25. The respondent calculated her monthly income as \$519.76 by adding these pay checks.
6. The income limit for an aged/disabled individual to receive full Medicaid is \$856.00 through December 2014. Effective January 2015, the income limit increased to \$871.00. The petitioner's income exceeds this amount; therefore, the respondent enrolled her in the Medically Needy Program.
7. The respondent calculated her Medically Needy budget and determined her \$1,038.00 SOC as follows:

Total unearned income (SSDI)	\$ 916.00
<u>Unearned income disregard</u>	<u>-\$ 20.00</u>
Countable Unearned Income	\$ 896.00
Total earned income (\$400.00 rental income + \$519.76 income from job)	\$ 919.76
<u>Earned income disregard</u>	<u>-\$ 65.00</u>
<u>½ Remaining disregard</u>	<u>-\$ 427.38</u>
Countable Earned Income	\$ 427.38

Countable Earned Income	\$ 427.38
Countable Unearned Income	\$ 896.00
Total Countable Income	\$1,323.38
Total countable income	\$1,323.38
Medically Needy Income Limit (MNIL)	-\$ 180.00
Share of Cost (SOC)	\$1,143.00
Medical insurance premium	-\$ 104.90
Remaining SOC	\$1,038.00

8. The respondent informed the petitioner how the Medically Needy Program works and advised her to provide her unpaid medical bills every month so they can determine if she meets her SOC.
9. The petitioner expressed concern that she will not be able to meet her SOC every month because the amount is so high and she will end up paying for her medical expenses herself. She asserted she needs full Medicaid in order to get the medical care she needs.
10. The income limits for an individual to qualify for the three Medicare Savings Plan (MSP) programs are as follows: Qualified Medicare Beneficiary (QMB) = \$973.00, Special Low Income Medicare Beneficiary (SLMB) = \$1,167.00 and Qualified Individuals 1 (QI1) = \$1,313.00. The petitioner was not eligible for the QI1 program, or any other Medicaid program that would pay the Medicare Part B premium, because her total countable income (\$1,323.38) exceeds the income limits for these programs.
11. Effective January 2015, the income limits for an individual to qualify for these programs increased as follows: QMB = \$990.00, SLMB = \$1,187.00 and QI1 = \$1,335.00. As the petitioner's total countable income (\$1,323.38) is now below the QI1 income limit, she was approved for QI1 benefits effective January 2015.

CONCLUSIONS OF LAW

12. 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 § 409.285, Fla. Stat.
13. This proceeding is a de novo proceeding pursuant to Fla. Admin. Code R. 65-2.056.
14. In accordance with Fla. Admin. Code R. 65-2.060(1), the burden of proof was assigned to the respondent for both issues.

Medically Needy Program

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.

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 as follows:

Coverage Group	Income Limit
MEDS-AD/ICP- MEDS/Individual (88% FPL)	\$856 (\$871.00 effective 01/2015)

23. The SSI-Related Programs – Financial Eligibility Standards show the Medically Needy Income Level (MNIL) for an individual is \$180.00.

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 \$1,323.38 exceeds the income limit for full Medicaid (\$856.00), the undersigned finds the respondent correctly evaluated the petitioner for the Medically Needy Program and determined her SOC to be \$1,038.00 after all allowable deductions.

Medicare Savings Plan Programs

25. Fla. Admin. Code R. 65A-1.702, Medicaid Special Provisions, states in relevant part:

...
(12) Limits of Coverage

(a) Qualified Medicare Beneficiary (QMB). Under QMB coverage, individuals are entitled only to Medicare cost-sharing benefits, including payment of Medicare premiums.

(b) Special Low-Income Medicare Beneficiary (SLMB). Under SLMB coverage, individuals are entitled only to payment of the Part B Medicare premium...

...

(d) Part B Medicare Only Beneficiary (QI1). Under QI1 coverage, individuals are only entitled to payment of their Medicare part B premium. (This is coverage for individuals who would be eligible for QMB or SLMB coverage except their income exceeds time limits for those programs.)

26. Fla. Admin. Code R. 65A-1.713(1) further addresses the SSI-Related

Medicaid Income Eligibility Criteria as follows:

(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:

...

(b) For QMB, income must be less than or equal to the federal poverty level after application of exclusions specified in subsection 65A-1.713(2), F.A.C.

...

(g) For SLMB, income must be greater than 100 percent of the federal poverty level but equal to or less than 120 percent of the federal poverty level.

...

(j) For a Qualified Individual 1 (QI1), income must be greater than 120 percent of the federal poverty level, but equal to or less than 135 percent of the federal poverty level. QI1 is eligible only for payment of the Part B Medicare premium through Medicaid.

27. The SSI-Related Programs – Financial Eligibility Standards show QMB income limit for an individual is \$973.00, the SLMB income limit for an individual is \$1,167.00 and the QI1 income limit for an individual is \$1,313.00. The petitioner's total countable income after all allowable deductions is \$1,323.38, which exceeded the income limits to be eligible for all the MSP programs.

28. In January 2015, these income limits increased for each program. The QMB income

limit increased to \$990.00, the SLMB income limit increased to \$1,187.00 and the QI1 income limit increased to \$1,335.00. The petitioner's total countable income is now below the QI1 income limit, therefore, the respondent approved QI1 benefits for her effective January 1, 2015.

29. After careful review of the controlling legal authorities and evidence, the undersigned concludes the respondent correctly followed rule in terminating the petitioner's SLMB benefits effectived October 31, 2014 and denying her QI1 benefits for November 2014 and December 2014 due to her income exceeding the income limits for these programs for those months.

DECISION

Based upon the foregoing Findings of Fact and Conclusions of Law, the appeals are 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.

FINAL ORDER (Cont.)
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DONE and ORDERED this 2nd day of February, 2015,
in Tallahassee, Florida.

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Copies Furnished To: [REDACTED] Petitioner
ACCESS Circuit 7 – Lynn Dann