

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

FILED

APR 09 2015

OFFICE OF APPEAL HEARINGS
DEPT OF CHILDREN & FAMILIES

[REDACTED]

APPEAL NO. 14F-09473

PETITIONER,

Vs.

CASE NO. [REDACTED]

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

RESPONDENT.

FINAL ORDER

Pursuant to notice, the undersigned convened an administrative hearing telephonically in the above-referenced matter on March 16, 2015 at 8:30 a.m.

APPEARANCES

For the petitioner: [REDACTED], pro se

For the respondent: Katherine Ambrose, ACCESS supervisor

STATEMENT OF ISSUE

At issue was whether respondent's action to end the petitioner's daughter's full Medicaid and enroll her into the Medically Needy Program was correct. The petitioner is seeking full Medicaid for her daughter.

PRELIMINARY STATEMENT

On October 22, 2014, the respondent notified the petitioner as of November 30, 2014, her daughter's full Medicaid benefits would end. The reason stated on the notice was that "the household income is too high to qualify for this Program". The child was

enrolled in the Medically Needy Program with an estimated share of cost beginning December 2014.

The petitioner presented two exhibits, which were accepted into evidence and marked as Petitioner's Exhibits "1" and "2". The respondent presented 3 exhibits, which were accepted into evidence and marked as Respondent Exhibit "1" through "3" respectively. The record was held open until the end of business on April 9, 2015 for submission of additional evidence from the respondent. On April 3, 2015, additional evidence was received and marked as Respondent Exhibit 4.

FINDINGS OF FACT

1. Prior to the action under appeal, petitioner (46) was receiving full Medicaid for herself and her two children.
2. On October 21, 2014, petitioner submitted a recertification application for Medicaid benefits for her household. The household includes petitioner and her two children ages 15 and 19. The application listed petitioner as disabled and household income of Social Security Disability \$862.00, child support of \$95.00 weekly and Supplemental Survivor Income for her daughter (15) of \$379.00. Total monthly household income is \$1,621.00.
3. Due to the Affordable Care Act changes, child support income is excluded and is not counted in the Medicaid budget. Therefore, the gross income used in the budget is \$1,241.00.
4. The income limit for petitioner's daughter (19) to be eligible for full Medicaid benefits for a household size of three is \$364.00. Since the household income is \$1,241.00, the daughter was enrolled in the Medically Needy Program.

5. On October 22, 2014, the Department mailed the petitioner a Notice of Case Action notifying her daughter (19) was enrolled in the Medically Needy Program with a share of cost.

6. Respondent determined the petitioner's daughter estimated share of cost to be \$755.00 for December 2014 and ongoing as follows:

\$1,241.00	Household income
<u>-486.00</u>	<u>medically needy income level for standard filing unit of three</u>
\$755.00	share of cost

7. Petitioner did not dispute the income. Petitioner argues that the Medically Needy Program is not good for her daughter. She explains her daughter has various illnesses and she need to see a specialist.

CONCLUSIONS OF LAW

8. 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.

9. This proceeding is a de novo proceeding pursuant to Fla. Admin. Code R. 65-2.056. In accordance with Fla. Admin. Code R. 65-2.060 (1), the burden of proof was assigned to the respondent.

10. The Code of Federal Regulations 42 C.F.R. § 435.110 defines Medicaid Mandatory Coverage of Families and Children:

...
(c) Income standard. The agency must establish in its State plan the income standard as follows:

(1) The minimum income standard is a State's AFDC income standard in

effect as of May 1, 1988 for the applicable family size converted to a MAGI-equivalent standard in accordance with guidance issued by the Secretary under section 1902(e)(14)(A) and (E) of the Act...

11. 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

12. 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

13. The authority cited sets forth the income limits for full Medicaid. The undersigned concludes petitioner's total countable gross income of \$1,241.00 exceeds the income standard for a household size of three of \$303.00.

14. The Code of Federal Regulations at 42 C.F.R. § 435.308 discuss medically needy coverage of individuals under age 21:

(a) If the agency provides Medicaid to the medically needy, it may provide Medicaid to individuals under age 21 (or, at State option, under age 20, 19, or 18), as specified in paragraph (b) of this section:

- (1) Who would not be covered under the mandatory medically needy group of individuals under 18 under §435.301(b)(1)(ii); and
- (2) Who meet the income and resource requirements of subpart I of this part.

(b) The agency may cover all individuals described in paragraph (a) of this section or reasonable classifications of those individuals.

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

16. The ACCESS Florida Program Policy Manual Appendix A-7, Family-Related Medicaid Income Limits chart sets forth a \$486.00 MNIL for a household size of three.

17. The respondent subtracted the \$486.00 MNIL from \$1,241.00 to arrive at the \$755.00 share of cost-estimated amount for her daughter (19).

18. The Department's Program Policy Manual, Section 2630.0500 Share of Cost (MFAM) states in part:

The Share of Cost (SOC) refers to the amount of medical bills which an individual enrolled in the Medically Needy Program must incur in any given month before Medicaid coverage may be authorized.

Eligibility must be determined for Medically Needy any time the assistance group meets all technical factors but the income exceeds the appropriate income limit for Medicaid.

To calculate the share of cost, compare the countable net income to the Medically Needy Income Level based on the size of the standard filing unit. The difference is the assistance group's share of cost.

19. In careful review of the cited authorities and evidence, the undersigned concludes the respondent's actions to enroll the petitioner daughter in a Medicaid Medically Needy Program and determine a share of cost of \$755 effective December 2014 was within the rules of the Program.

DECISION


Based upon the foregoing Findings of Fact and Conclusions of Law, the appeal in seeking full Medicaid is denied and the respondent'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 9th day of April, 2015,

in Tallahassee, Florida.


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