

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

FILED

FEB 09 2015

OFFICE OF APPEAL HEARINGS
DEPT. OF CHILDREN & FAMILIES



PETITIONER,

APPEAL NO. 14F-09555

Vs.

CASE NO. 1214794025

FLORIDA DEPT OF
CHILDREN AND FAMILIES
CIRCUIT: 18 Brevard
UNIT: 55207

RESPONDENT.

FINAL ORDER

Pursuant to notice, the undersigned telephonically convened an administrative hearing in the above-referenced matter at 2:25 p.m. on January 9, 2015.

APPEARANCES

For the Petitioner:  pro se

For the Respondent: James Rogers, ACCESS supervisor

STATEMENT OF ISSUE

At issue is respondent's action to terminate Qualifying Individual 1 (QI1) benefits for petitioner and his wife.

PRELIMINARY STATEMENT

By notice dated July 21, 2014 respondent notified petitioner QI1 benefits for he and his wife would end on July 31, 2014, due to household income being too high to qualify for the program. Petitioner requested a hearing to challenge the QI1 termination.

Petitioner did not submit exhibits into evidence. Respondent submitted four exhibits into evidence, entered as Respondent Exhibits "1" through "4". The record was closed on January 9, 2015.

FINDINGS OF FACT

1. Prior to the action under appeal petitioner and his wife received QI1 benefits.
2. On July 18, 2014 the Department processed a "MASS CHANGE", which affected petitioner's QI1 benefits. MASS CHANGE is a procedure completed due to annual adjustment to the QI1 income eligibility standard, effective July 1, 2014.
3. QI1 is a Medicaid program that pays for Medicare Part B premium. To be eligible for QI1, applicants cannot exceed the income standard. In July 2014 the QI1 income standard for a couple was raised to \$1,770.
4. Respondent determined petitioner's QI1 eligibility as follows:

\$1,165.00	petitioner's Social Security Disability Income (SSDI)
\$ 827.00	petitioner's wife SSDI
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\$1,992.00	household income
-\$ 20.00	unearned income disregard
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\$1,972.00	total countable income
5. Petitioner's \$1,972.00 household income exceeds the \$1,770 couple income standard to be eligible for QI1 benefits.
6. On July 21, 2014 respondent mailed petitioner a Notice of Case Action notifying QI1 benefits would end on July 31, 2014 for he and his wife; "Reason: Your household's income is too high to qualify for this program."
7. Petitioner does not dispute respondent's QI1 calculations. Petitioner's position is the State does not consider other expenses in the QI1 eligibility determination.

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 Fla. Stat. § 409.285.
9. This proceeding is a de novo proceeding pursuant to Fla. Admin. Code R. 65-2.056.
10. In accordance with Fla. Admin. Code R. 65-2.060 (1), the burden of proof was assigned to the respondent.
11. Fla. Admin. Code R. 65-1.702 Medicaid Special Provisions, in relevant part states:
 - (12) Limits of Coverage.
 - (d) Part B Medicare Only Beneficiary (QI1). Under QI1 coverage, individuals are only entitled to payment of their Medicare Part B premium...
12. Fla. Admin. Code R. 65A-1.713(1) addresses the "SSI-Related Medicaid Income Eligibility Criteria" stating:
 - (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...
 - (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...
13. The above authority explains to be eligible for 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".
14. ACCESS Florida Program Policy Manual, Appendix A-9, identifies \$1,770 as the federal poverty level for QI1 couple, effective July 1, 2014.

15. Federal regulation at 20 C.F.R. § 416.1124(c) (12) establishes a \$20 disregard for "the first \$20 of any unearned income in a month" and income can be reduced by that amount. Respondent deducted \$20 from petitioner's \$1,992 to arrive at \$1,972 countable income.

16. The Department's ACCESS Program Policy Manual, 165-22, 0840.0700 explains

MASS CHANGE:

Certain changes may affect the entire caseload or significant portions of the caseload. Examples of mass changes include, but are not limited to:

1. annual adjustments to the income eligibility standards;
2. annual and seasonal adjustments to the state's utility standard;
3. periodic cost of living adjustments to Social Security, SSI, and other federal benefits; and
4. other changes in the eligibility criteria based on legislative or regulatory actions....

17. The above policy explains MASS CHANGE occurs when there is an annual adjustment to income eligibility standards. In this case, the Q11 eligibility income standard for a couple increased to \$1,770, effective July 1, 2014.

18. In careful review of the cited authorities and evidence the undersigned concludes respondent followed rule in terminating Q11 benefits for petitioner and his wife; due to household income (\$1,992) exceeding the couple Q11 income standard (\$1,770).

DECISION

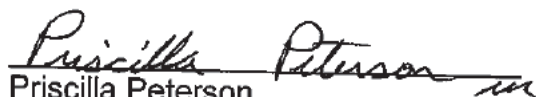
Based upon the foregoing Findings of Fact and Conclusions of Law, the appeal is denied and respondent's action affirmed.

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 9th day of February, 2015,

in Tallahassee, Florida.


Priscilla Peterson
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Copies Furnished To: [REDACTED] Petitioner
ACCESS Brenda Fleming