

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

FILED

MAR 04 2015

OFFICE OF APPEAL HEARINGS
DEPT OF CHILDREN & FAMILIES



APPEAL NO. 14F-09558

PETITIONER,

Vs.

CASE NO. 

FLORIDA DEPARTMENT OF
CHILDREN AND FAMILIES
CIRCUIT: 08 Alachua
UNIT: 88369

RESPONDENT.

FINAL ORDER

Pursuant to notice, the undersigned convened an administrative hearing telephonically in the above-referenced matter on January 9, 2015 at 9:57 a.m.

APPEARANCES

For the Petitioner: 

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

STATEMENT OF ISSUE

Petitioner is appealing the Department's action of November 14, 2014 to continue enrollment in the Medically Needy (MN) program.

PRELIMINARY STATEMENT

The Department submitted evidence on November 26, 2014 which was entered as Respondent Composite Exhibit 1 (RC1).

Stephanie, interpreter number 22617 of the language line, was also present.

FINDINGS OF FACT

Based on the oral and documentary evidence presented at the final hearing and on the entire record of this proceeding, the following findings of fact are made:

1. The petitioner submitted an electronic application for recertification of Medicaid on October 20, 2014 and indicated no for filing taxes.
2. The household consists of the petitioner (age 40), her husband (age 47) and two children, ages 19 and 17. The application indicates the children are each attending school half-time. The application indicates petitioner is not disabled.
3. The husband receives Social Security Disability of \$914 monthly. The 17 year old receives SSI of \$434 monthly and Social Security of \$307 monthly.
4. The petitioner has been unable to take her necessary medications and unable to see her rheumatologist as she cannot afford the out of pocket expense.
5. The Department totaled the petitioner's household income listed above for a total income of \$1,221. This caused the petitioner to exceed the \$364 income limit for adults to receive full Medicaid (counting four people) in the Family-track coverage groups.
6. The Department determined the petitioner's MN share of cost amount as follows:

Monthly unearned income	\$1,221
MNIL (Medically Needy Income Limit for four)	-\$585
Share of cost:	\$636
7. Petitioner believes her medications run about \$100 - \$110 monthly and her copay for her physician's visit is about \$100.

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 § 65-2.056.

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

11. §435.119 Coverage for individuals age 19 or older and under age 65 at or below 133 percent FPL.

12. Federal Regulations at 42 C.F.R. § 435.119, "Coverage for individuals age 19 or older and under age 65 at or below 133 percent FPL" establishes an income limit for full Medicaid and states in part:

(a) Basis. This section implements section 1902(a)(10)(A)(i)(VIII) of the Act.

(b) Eligibility. Effective January 1, 2014, the agency must provide Medicaid to individuals who:

(1) Are age 19 or older and under age 65;

(2) Are not pregnant;

(3) Are not entitled to or enrolled for Medicare benefits under part A or B of title XVIII of the Act;

(4) Are not otherwise eligible for and enrolled for mandatory coverage under a State's Medicaid State plan in accordance with subpart B of this part; and

(5) Have household income that is at or below 133 percent FPL for the applicable family size.

13. Family Related Medicaid "General Rules" for the Medically Needy

Program are found in Federal Regulations 42 C.F.R. §435.301. Medicaid eligibility is based on income and the regulations states in relevant part:

- (a) An agency may provide Medicaid to individuals specified in this subpart who:
 - (1) Either:
 - (i) Have income that meets the applicable standards in §§435.811 and 435.814; or
 - (ii) If their income is more than allowed under the standard, have incurred medical expenses at least equal to the difference between their income and the applicable income standard; ...

14. The Family-Related Medicaid eligibiliy criteria are set forth in Federal

Regulations at 42 C.F.R §435.603 and states:

- (a) Basis, scope, and implementation. (1) This section implements section 1902(e)(14) of the Act.
- (2) Effective January 1, 2014, the agency must apply the financial methodologies set forth in this section in determining the financial eligibility of all individuals for Medicaid, except for individuals identified in paragraph (j) of this section and as provided in paragraph (a)(3) of this section.
- ...
- (d) Household income—(1) General rule. Except as provided in paragraphs (d)(2) through (d)(4) of this section, household income is the sum of the MAGI-based income, as defined in paragraph (e) of this section, of every individual included in the individual's household.
- ...
- (f) *Household*— ... (3) Rules for individuals who neither file a tax return nor are claimed as a tax dependent. In the case of individuals who do not expect to file a Federal tax return and do not expect to be claimed as a tax dependent for the taxable year in which an initial determination or renewal of eligibility is being made, or who are described in paragraph (f)(2)(i), (f)(2)(ii), or (f)(2)(iii) of this section, the household consists of the individual and, if living with the individual—
 - (i) The individual's spouse;
 - (ii) The individual's natural, adopted and step children under the age specified in paragraph (f)(3)(iv) of this section; and
 - (iii) In the case of individuals under the age specified in paragraph (f)(3)(iv) of this section, the individual's natural, adopted and step parents and natural, adoptive and step siblings under the age specified in paragraph (f)(3)(iv) of this section.

- (iv) The age specified in this paragraph is either of the following, as elected by the agency in the State plan—
- (A) Age 19; or
 - (B) Age 19 or, in the case of full-time students, age 21.

15. The Department's Program Policy Manual, 165-22, section 2230.0400

"Standard Filing Unit (MFAM)" states:

For individuals who neither file a federal tax return nor are claimed as a tax dependent (non-filers), the Standard Filing Unit consists of the individual and, if living with the individual, their spouse, their natural, adopted, and step children under age 19, or 19 and 20 if in school full-time.

SSI recipients in the household are included in the Standard Filing Unit, but their SSI income is excluded. If they have any other income, it is included, subject to tax rules.

16. The Department's Policy Manual Appendix A-7, Family-Related Medicaid Income Limits" **chart sets forth the income limit for an adult as \$364** for a four person household and the MNIL for four as \$585. The appendix also shows the 5% disregard for a family of four at \$99. There is a note for the MNIL which states, "*** MNIL--The Medically Needy Income Limit (MNIL) includes the appropriate standard disregard. No additional disregards should be applied to establish a share of cost" and "MAGI--The 5% MAGI disregard is never used in a Medically Needy budget."

17. The Department's Policy Manual, 165-22, section 2630.0108 "Budget Computation (MFAM)" states:

Financial eligibility for Family-Related Medicaid is determined using the household's Modified Adjusted Gross income (MAGI). The MAGI is the household's adjusted gross income as calculated by the Internal Revenue Service plus any foreign earned income and interest income exempt from tax.

In computing the assistance group's eligibility, the general formula is:
Step 1 - (Gross Unearned + Gross Earned) = (Total Gross Income).

Step 2 - Deduct any allowable income tax deductions (lines 23-35 from 1040). Deduct any allowable deductions for financial aid or self-employment to obtain the Modified Adjusted Gross Income.

Step 3 - Deduct the appropriate standard disregard. This will give the countable net income.

Step 4 - Compare the total countable net income to the coverage group's income standard.

If less than or equal to the income standard* for the program category, STOP, the individual is eligible. If greater than the income standard for the program category, continue to Step 5.

Step 5 - Apply a MAGI deduction (5% of the FPL based on SFU size).

If the 5% disregard would make the individual eligible, include the disregard. Otherwise the individual is ineligible for Medicaid.

Individuals determined ineligible for Medicaid will be enrolled in Medically Needy and referred, as appropriate, to Florida KidCare and/or the Federally Facilitated Marketplace (FFM).

18. In this case, the Department determined the petitioner's eligibility for Medicaid with a standard filing unit that consisted of the parents and both children. The Department included the Social Security unearned income of \$914 and \$304 for a total of \$1221. The SSI income was correctly excluded. The income limit for the adults to receive Medicaid in a household of four is \$364. The income prevents eligibility for full Medicaid for petitioner (see #16 above). According to the above authority, a 5% disregard is allowed if it causes the income limit to be met. The undersigned concludes the additional disregard of \$99 for a family of four does not allow eligibility. The Department correctly determined petitioner is over the income limit for full Medicaid.

19. The Department next deducted the MNIL for a family of four of \$585 leaving petitioner's share of cost at \$636. Based on the current controlling authorities, the undersigned concludes there is no more favorable outcome for petitioner's Medicaid coverage. The Department correctly enrolled petitioner in the Medically Needy Program.

DECISION

Based upon the foregoing Findings of Fact and Conclusions of Law, the appeal is denied and the Department's actions are 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 4th day of March, 2015,

in Tallahassee, Florida.



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