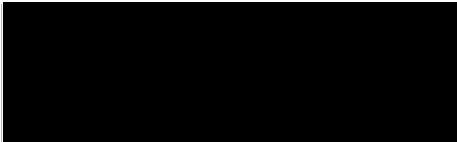


STATE OF FLORIDA
DEPARTMENT OF CHILDREN AND FAMILIES
OFFICE OF APPEAL HEARINGS

FILED
MAR 02 2015
OFFICE OF APPEAL HEARINGS
DEPT OF CHILDREN & FAMILIES



PETITIONER,

Vs.

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

APPEAL NO. 14F-10298

CASE NO. 

RESPONDENT.

FINAL ORDER

Pursuant to notice, the undersigned convened a telephonic administrative hearing in the above-referenced matter on January 27, 2015 at 8:30 a.m.

APPEARANCES

For the petitioner:  pro se

For the respondent: Mildred Smith, ACCESS supervisor

STATEMENT OF ISSUE

The petitioner is appealing the respondent's denial of full Medicaid Assistance Program benefits.

PRELIMINARY STATEMENT

The petitioner is appealing the respondent's termination of Transitional Medicaid Program benefits effective October 31, 2014. The petitioner is enrolled in the Medically Needy Program with a share of cost amount of \$303.00 as of November 2014.

On October 3, 2014, the respondent informed the petitioner that Transitional Medicaid Program benefits for the household were terminated. The petitioner timely requested a hearing. Petitioner is seeking full Medicaid for herself.

The petitioner did not present any exhibits. Respondent presented six exhibits, which were accepted into evidence as Respondent Exhibits "1" through "6" respectively.

FINDINGS OF FACT

1. Prior to the action under appeal, petitioner (36) was receiving transitional family Medicaid Assistance benefits for herself and two children (ages 11 and 9). The children's Medicaid is not an issue.
2. Petitioner submitted an application on September 30, 2014, to recertify Food Assistance and Medicaid Assistance Program benefits. Petitioner reported on her application that she has been employed with the [REDACTED] since 2012. The petitioner submitted paystubs with gross pay of \$386.66 dated September 3, 2014 and \$401.28 dated September 17, 2014 totaling \$789.94.
3. The respondent reviewed the case and realized the household erroneously was approved for full Medicaid Assistance Program from June 1, 2013 through May 31, 2014 by budgeting only \$255.18 of petitioner's earned income in the Medicaid budget. Sometime in April 2014, petitioner submitted an application to recertify for Medicaid and FAP benefits. The respondent processed the petitioner's recertification application and updated the petitioner's income to reflect the correct earned income.
4. When the respondent updated the correct income, the adjusted income was more than the Family-Related Medicaid Assistance Program income standard for the previous certification. Therefore, the respondent determined the household was not eligible to

receive Transitional Medicaid because petitioner was not previously eligible for Medicaid.

5. The petitioner did not understand why she was denied full Medicaid; additionally she explained her income (average monthly earning of \$700.00 to \$800.00) has not changed except recently she has decreased in hours worked. Petitioner confirmed earning an average of \$300.00 bi-weekly from her employment.

6. The household income limit for an adult for a household size of three to be eligible for full Medicaid is \$303.00. The respondent explained based on the income of \$789.94, the petitioner was eligible for enrollment in a Medically Needy Program benefits effective November 1, 2014.

7. Respondent determined petitioner's estimates share of cost to be \$303.00 for November 2014 and ongoing as follows:

\$789.94	Petitioner's earnings
<u>-\$486.00</u>	<u>medically needy income level for standard filing unit of three</u>
= \$303.00	share of cost

8. On October 31, 2014, the respondent sent the petitioner notice a Notice of Case Action terminating the Transitional Medicaid Program benefits effective November 2014.

CONCLUSIONS OF LAW

9. The Department of Children and Families, Office of Appeal Hearings has jurisdiction over the subject matter of this proceeding and the parties, pursuant to § 409.285, Fla. Stat. This order is the final administrative decision of the Department of Children and Families under Fla. Stat. § 409.285.

10. This proceeding is a de novo proceeding pursuant to Fla. Admin. Code R. 65-2.056.

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

12. Fla. Stat. § 445.029, Transitional medical benefits, sets forth, "(1) A family that loses its temporary cash assistance due to earnings shall remain eligible for Medicaid without reapplication during the immediately succeeding 12-month period..."

13. The Department's ACCESS Program Policy Manual, 165-22, section 2030.0203 Transitional Coverage (MFAM), states:

Transitional coverage provides extended coverage for up to 12 months, beginning with the month of ineligibility. Changes during this period, other than the child turning 18 or loss of state residence, do not affect the transitional Medicaid period. An ex parte determination must be completed prior to cancellation and a notice sent when the parents and other caretaker relatives and/or children included in the assistance group becomes ineligible due to the following reasons:

1. initial receipt of earned income of the parent or caretaker relative, or
2. receipt of increased earned income of the parent or caretaker relative.

Conditions that must be met:

1. The parents and other caretaker relatives assistance group must be ineligible for Medicaid as parents and other caretaker relatives based on initial receipt of earned income or receipt of increased earned income by the parent or caretaker relative. If more than one budget change is being acted on at the same time, a test budget(s) will be necessary to determine if the change in earned income is the sole cause of ineligibility.
2. At least one member of the assistance group was eligible for and received Medicaid in at least three of the preceding six months. The three months can include one month in which Medicaid was received in another state, or a retroactive month. All SFU members are eligible, even if they were not a part of the original assistance group.

14. The petitioner lost full coverage Family-Related Medicaid because her household's income exceeds program limitations; transitional Medicaid was then authorized for six

months. However, the respondent admitted they had made an error in approving Family-Related Medicaid because the respondent did not budget the correct income received in the household thus causing the household to become eligible for Transitional Medicaid Program. Once the Department realized the error caused, the Transitional Medicaid was terminated as of October 31, 2014 and petitioner was enrolled in the Medically Needy Program on November 2014.

15. 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

16. The authority cited sets forth the income limits for full Medicaid. The undersigned concludes petitioner's total countable gross income of \$789.94 exceeds the income standard for a household size of three of \$303.00.

17. Florida Administrative Code R. 65A-1.713, addresses Medically Needy and states in part:

(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...

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

19. 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.

20. The respondent subtracted the \$486 MNIL from \$789.94 to arrive at the \$303.00 share of cost-estimated amount for the petitioner.

21. In careful review of the evidence and cited authorities, the undersigned concludes the Department has correctly evaluated the petitioner for the Medically Needy Program. It is concluded that the respondent's action to take corrective action to terminate the Transitional Medicaid Program benefits effective October 31, 2014 was within the rules and regulations of the Program.

DECISION

Based upon the foregoing Findings of Fact and Conclusions of Law, the appeal is denied and the Department'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 2nd day of March, 2015,

in Tallahassee, Florida.


Cassandra Perez
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
Office of Economic Self Sufficiency