

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

FILED

MAR 03 2015

OFFICE OF APPEAL HEARINGS
DEPT OF CHILDREN & FAMILIES

APPEAL NO. 14F-10365

CASE NO. [REDACTED]

[REDACTED]
PETITIONER,

Vs.

FLORIDA DEPT OF
CHILDREN AND FAMILIES
CIRCUIT: 09 Orange
UNIT: 88999

RESPONDENT.
_____ /

FINAL ORDER

Pursuant to notice, the undersigned convened a telephonic administrative hearing in the above-referenced matter on January 20, 2015 at 3:30 p.m.

APPEARANCES

For the petitioner: [REDACTED] pro se

For the respondent: Evelyn Ross, ACCESS supervisor

STATEMENT OF ISSUE

The petitioner is appealing the respondent's action to enroll her son in the Medically Needy Program with a share of cost (SOC). Petitioner is seeking full Medicaid for her child.

PRELIMINARY STATEMENT

On December 15, 2014, the respondent notified the petitioner that her household would be enrolled in the Medically Needy Program. The petitioner timely requested a

hearing to challenge enrollment in the Medically Needy Program on the basis that she wanted full Medicaid Assistance for her child.

The petitioner presented one exhibit, which was accepted and entered into evidence as Petitioner Composite Exhibit 1. The respondent presented three exhibits, which were accepted into evidence and marked as Respondent Exhibits "1" through "3" respectively. The record was left open until close of business on January 27, 2015 for the respondent to submit additional evidence. The additional evidence was received on January 26, 2015 and marked as Respondent Exhibit "4".

FINDINGS OF FACT

1. On December 3, 2014, petitioner (29) applied for Medicaid Assistance for her son (5). The petitioner reported on her application household members consist of herself, her husband, and their child. Petitioner reported her and her husband to be employed at [REDACTED] and paid bi-weekly.
2. The Department determined the household's monthly countable income to be \$2,902.50. The Department determined that said child was ineligible for full Medicaid. The income limit for petitioner's child to receive full Medicaid is based on the Federal Poverty Level (FPL) of 133% for a household size of three is \$2,194.00 with a standard disregard of \$116.00. The household income exceeds this amount; therefore, the respondent enrolled said child in the Medically Needy Program with a share of cost of \$916.00 beginning December 2014 (Respondent Exhibit 3).
3. Respondent could not explain the income used in the Medicaid budget. The respondent recalculated the earned income using the gross pays submitted at the hearing. Petitioner submitted her gross pay dated December 19, 2014 of \$500.44

(multiplied by two totaling \$1,000.88) and petitioner's husband dated December 19, 2014 of \$707.08 (multiplied by two totaling \$1,414.16). The combined monthly gross amount is \$2,415.04 (Petitioner Exhibit 1).

4. At the hearing, respondent recalculated the Medically Needy SOC budget as follows:

\$2,407.04	combined household incomes (not converted)
-\$486.00	Medically Needy Income Limit (MNIL)
-\$1,500.00	MED Insurance premium
<hr/>	
\$421.00	Share of cost

5. It is unknown how the respondent determined the household income of \$2,407.04. The respondent determined the share of cost to be \$421.00 beginning January 2015 (reduced from \$916.00).

6. The petitioner asserts the following. She requested Medicaid Assistance only for her child. She does not understand why the respondent uses gross income instead of the net income. She does not understand why the household expenses of rent, electric, water and childcare are not considered in the Medicaid budget. Petitioner argues that the Medically Needy Program is not good for her son. She explained her son was diagnosis with Autism Spectrum and will need to see a specialist.

CONCLUSIONS OF LAW

7. 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.

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

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

10. The Department's Program Policy Manual (165-22) Section 1830.0200 EARNED INCOME (MFAM):

Earned income includes all gross (before taxes or other deductions) wages and salaries including income derived from the sale of blood or plasma, tips from performance of work, wages deferred that are beyond the individual's control, Federal Work Study and National and Community Services Trust Act living allowances through the Peace Corp, VISTA, Americorps, Foster Grandparent Program, Service Corps of Retired Executives and other volunteer programs. Wages are included as income at the time they are received rather than when earned. Wages are considered earned income even when withheld at the request of the employee or provided as an income advance on income expected to be earned at a future date.

11. The above authority explains gross earned income must be included in the budget. The findings show, the respondent correctly included the gross income of the household in the Medicaid budget at the hearing.

12. Fla. Admin. Code R. 65A-1.703 lists the Family-Related Medicaid Coverage Groups. These authorities set forth full Medicaid coverage groups available for children depending on their ages and income.

(1) The department provides mandatory Medicaid coverage for individuals, families and children described in Section 409.903, F.S., Section 1931 of the Social Security Act and other relevant provisions of Title XIX of the Social Security Act. The optional family-related Title XIX and Title XXI coverage groups served by the department are stated in each subsection of this rule.

(a) Children under the age of 21 living with a specified relative who meet the eligibility criteria of Title XIX of the Social Security Act. Included in this coverage group are children who are under age 21 in intact families, provided that the children are living with both parents, unless a parent is temporarily absent from the home.

13. The Department's Program Policy Manual, Section 2630.107 Budgets and Tests (MFAM) states in part, "To be financially eligible, the total gross income of the assistance group cannot exceed the appropriate coverage group's income limit." The following provision, Section 2630.108, 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).

*Note: Children aged 6-18 do not receive the standard disregard. They do receive the 5% MAGI disregard, if it's needed to determine the assistance group eligible.

14. The Code of Federal Regulations at 42 C.F.R. § 435.118 Infants and children under age 19 states in part:

(a) Basis. This section implements sections 1902(a)(10)(A)(i)(III), (IV), (VI), and (VII); 1902(a)(10)(A)(ii)(IV) and (IX); and 1931(b) and (d) of the Act.

(b) Scope. The agency must provide Medicaid to children under age 19 whose household income is at or below the income standard established

by the agency in its State plan, in accordance with paragraph (c) of this section.

(c) Income standard. (1) The minimum income standard is the higher of—

(i) 133 percent FPL for the applicable family size; or

(ii) For infants under age 1, such higher income standard up to 185 percent FPL, if any, as the State had established as of December 19, 1989 for determining eligibility for infants, or, as of July 1, 1989 had authorizing legislation to do so.

(2) The maximum income standard for each of the age groups of infants under age 1, children age 1 through age 5, and children age 6 through age 18 is the higher of—

(i) **133 percent FPL**; (emphasis added)

(ii) The highest effective income level for each age group in effect under the Medicaid State plan for coverage under the applicable sections of the Act listed at paragraph (a) of this section or waiver of the State plan covering such age group as of March 23, 2010 or December 31, 2013, if higher, 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;

15. According to the above-cited rules, the assistance group's income must not exceed the 133% of the Federal Poverty Level to be eligible for full Medicaid on the said child.

The Department's Program Policy Manual, Appendix A-7 lists 133% of the Federal Poverty Level for a child aged one through five for a household of three as \$2,194.00 with a standard disregard of \$116.00. The undersigned concludes after the recalculations, the total countable income exceeds the coverage group income standard. The respondent determined the household income to be \$2,407.00 and used in the Medicaid budget (which is more beneficial to petitioner than the \$2,415.04 amount determined in the findings).

16. 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.

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

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 enrollment in the Medically Needy Program with a SOC is appropriate. The undersigned is unable to conclude any better outcome for petitioner than the Department's calculation.

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 3rd day of March, 2015,

in Tallahassee, Florida.


Cassandra Perez
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Copies Furnished To: [REDACTED] Petitioner
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