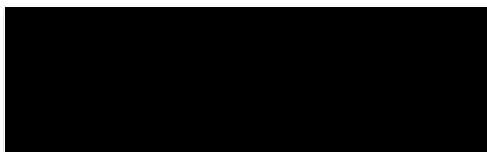


STATE OF FLORIDA
DEPARTMENT OF CHILDREN AND FAMILIES
OFFICE OF APPEAL HEARINGS

FILED

MAR 13 2015

OFFICE OF APPEAL HEARINGS
DEPT OF CHILDREN & FAMILIES



APPEAL NO. 14F-10404

PETITIONER,

Vs.

CASE NO. 

FLORIDA DEPARTMENT OF
CHILDREN AND FAMILIES
CIRCUIT: 01 Escambia
UNIT: 88630

RESPONDENT.

FINAL ORDER

Pursuant to notice, the undersigned convened an administrative hearing telephonically in the above-referenced matter on January 15, 2015 at 1:41pm.

APPEARANCES

For the Petitioner:



For the Respondent:

Steve Kent, ACCESS Supervisor

STATEMENT OF ISSUE

Petitioner is appealing the Department's action of December 2, 2014 enrolling her in Medically Needy Program. She is also appealing the action of December 16, 2014 increasing the share of cost. The petitioner is seeking full Medicaid eligibility.

PRELIMINARY STATEMENT

The Department presented information prior to the hearing which was entered as Respondent Exhibit 1 (R1). The petitioner submitted information to the Department for

hearing. The Department forwarded the information to the hearing officer. A total of 18 pages were entered as Petitioner Exhibit 1 (P1).

The record was held open until January 30, 2015 for additional medical expense verification from the petitioner and budgets, policy and case notes from the Department. The Department provided the additional information on January 15, 2015 which was entered as Respondent Exhibit 2. The petitioner did not supply any additional information by the deadline.

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 Interim Contact to the Department on October 30, 2014. This was used for recertification of Medically Needy and Medicare Savings Program benefits for the petitioner.
2. The Department issued a Notice of Case Action on December 2, 2014 enrolling the petitioner in Medically Needy Program effective October 1, 2014. The Share of Cost was determined to be \$866 per month.
3. The Department issued a Notice of Case Action on December 16, 2014 informing the petitioner her Share of Cost will increase from \$866 to \$884 effective January 1, 2015 with the reason "Cost of living adjustment for SSI/SSA".
4. The petitioner provided her Social Security Award letter showing her Social Security amount of \$1,084 effective January 2, 2015.
5. The Department explained the only disregards allowed in Medically Needy calculation are a \$20 standard unearned income disregard, verified allowable excess

medical expenses, and the Medically Needy Income Level for one person. The Medically Needy Income Level for one person is \$180.

6. The petitioner believes her medication expenses from 2014 totaled \$5,033.99. She has requested the verification of the amount from her provider (AARP United Healthcare). She has also requested the total amount of her doctor visit co-pays from 2014.

7. The Department explained the petitioner was approved for Special Low Income Medicare Beneficiary (SLMB) which pays her Medicare Part B premium.

8. The petitioner explained she cannot afford to pay her rent, utilities, groceries, transportation, personal expenses and the Share of Cost each month.

9. The petitioner is seeking full Medicaid rather than enrollment in the Medically Needy Program.

CONCLUSIONS OF LAW

10. 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.

11. This proceeding is a de novo proceeding pursuant to Fla. Admin. Code § 65-2.056.

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

13. Fla. Admin. Code § 65A-1.713 "SSI-Related Medicaid Income Eligibility Criteria" states in relevant part:

(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:

(a) For MEDS-AD Demonstration Waiver, income cannot exceed 88 percent of the federal poverty level after application of exclusions specified in subsection 65A-1.713(2), F.A.C.

...
(2) Included and Excluded Income. For all SSI-related coverage groups the department follows the SSI policy specified in 20 C.F.R. 416.1100 (2007) (incorporated by reference) et seq., including exclusionary policies regarding Veterans Administration benefits such as VA Aid and Attendance, unreimbursed Medical Expenses, and reduced VA Improved pensions, to determine what counts as income and what is excluded as income

...
(3) (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. Countable income is determined in accordance with subsection 65A-1.713(2), F.A.C. 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. The paid expense may not have been previously deducted from countable income during a period of eligibility. Medical expenses reimbursed by a state or local government not funded in full by federal funds, excluding Medicaid program payments, are allowable deductions. Any other expenses reimbursable by a third party are not allowable deductions. Examples of recognized medical expenses include:
1. Allowable health insurance costs such as medical premiums, other health insurance premiums, deductibles and co-insurance charges; and,
2. Allowable medical services such as the cost of public transportation to obtain allowable medical services; medical services provided or prescribed by a recognized member of the medical community; and personal care services in the home prescribed by a recognized member of the medical community.

14. The Department's Program Policy Manual (165-22) Appendix A-9 Eligibility Standards for SSI-Related Programs (effective January 2015) shows the income limit for an individual for MEDS-AD (full Medicaid) is \$871.

15. The undersigned concludes the petitioner's gross income of \$1,084 minus the \$20 exclusion exceeds the income limit for full Medicaid in the SSI-Related Program.

16. Federal Regulations 20 C.F.R. § 416.1124 describes the Unearned income that is not counted in SSI-Related Medicaid programs:

(c) (12) The first \$20 of any unearned income in a month other than income in the form of in-kind support and maintenance received in the household of another (see §416.1131) and income based on need. Income based on need is a benefit that uses financial need as measured by your income as a factor to determine your eligibility.

17. Fla. Admin. Code § 65A-1.716 Income and Resource Criteria lists in (2) the Medically Needy income level (MNIL) for a one person household is \$180.

18. The findings show the petitioner's gross income effective January 2015 is \$1,084. The Department determined the petitioner's Medically Needy share of cost is \$884 by subtracting the \$20 unearned disregard and the \$180 MNIL from the gross income of \$1,084. The undersigned finds no more favorable outcome based on the evidence received.

19. The petitioner did not submit documentation of her medical expenses (prescriptions, supplemental insurance premium, or doctor visit co-pays) for the undersigned to consider in review of the assigned share of cost. However, the petitioner may still submit these items to the Department for further review.

DECISION

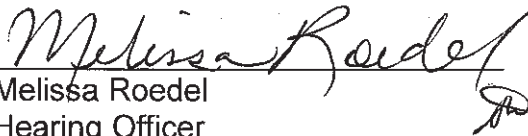
Based upon the foregoing Findings of Fact and Conclusions of Law, the appeal is denied and the Department's action is affirmed.

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 13th day of March, 2015,

in Tallahassee, Florida.



Melissa Roedel
Hearing Officer
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Copies Furnished To [REDACTED] Petitioner
1 DPOES: Reg Altazan