

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

FILED

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OFFICE OF APPEAL HEARINGS
DEPT. OF CHILDREN & FAMILIES



APPEAL NO. 14F-10728

PETITIONER,

Vs.

CASE NO. 

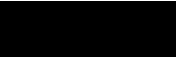

FLORIDA DEPARTMENT OF
CHILDREN AND FAMILIES
CIRCUIT: 17 Broward
UNIT: 88232

RESPONDENT.

FINAL ORDER

Pursuant to notice, the undersigned convened an administrative hearing in the above-referenced matter on January 14, 2015 at 9:41 a.m. All parties appeared telephonically from different locations.

APPEARANCES

For the petitioner:  and her husband, .

For the respondent: Donella Silverstein, ACCESS Supervisor.

STATEMENT OF ISSUE

At issue is the Department's action to enroll the petitioner's husband in the Medically Needy (MN) Share of Cost (SOC) program.

PRELIMINARY STATEMENT

On December 12, 2014, the Department sent a Notice of Case Action (NOCA) to the petitioner informing her that her husband was enrolled in the MN program with a SOC of \$172 per month. The petitioner timely appealed on December 16, 2014.

The petitioner presented no evidence for the undersigned to consider. The Department presented 26 pages of evidence for the undersigned to consider, which were accepted and marked as Respondent's Composite Exhibit "1". The record was left open until close of business January 15, 2015 for the Department to provide additional evidence. The Department provided the following supplemental documentation, which was entered as follows:

Respondent's Composite Exhibit "2": Family related Medicaid income limits, FLORIDA and manual Medicaid budget sheets, Medicaid policy, NOCA dated December 3, 2014, December 12, 2014 and December 31, 2014. (Pages 1-31)

The record was closed.

FINDINGS OF FACT

1. On December 11, 2014, the petitioner submitted a recertification application for Medicaid benefits for her, her husband and their child, age 13. She reported \$400 from another person and Social Security Disability Income (SSDI) of \$658.30 per month. The \$400 from another person is a loan from their adult son who does not live in the household. There was a reported rent of \$900 per month and an electric cost with heating and cooling. The petitioner reported on her application that she would be filing taxes for her, her husband and their child age 13, but not for their adult child age 19.

2. The petitioner's 19-year-old son moved out of the home and was removed from the case and the household size was reduced to three members. The Family-Related Medicaid income limit then decreased from \$384 for a four-person household to \$303 for a three person household. The Medically Needy Income Limit (MNIL) changed from \$585 for a four a four-person household to \$486 for a three-person household.

The loan of \$400 per month is not counted as income in the budget as it is a loan to be repaid. As the petitioner's income of \$658.30 is higher than the Family-Related Medicaid income limit of \$303 and the MNIL of \$486, her husband was enrolled in the MN Program with a SOC of \$172 per month.

3. The Department determined the SOC of \$172 by subtracting a standard disregard of \$183 from the petitioner's SSDI of \$658 to result in an adjusted income of \$475. As this adjusted income of \$475 is still higher than the Family Related Medicaid income limit of \$303, a Modified Adjusted Gross Income (MAGI) disregard of \$83 (5% of 100% Federal Poverty Limit) was given. This resulted in a countable net income of \$392. As this countable net income was still over the \$303 income limit, a SOC was calculated. The Department subtracted the MNIL of \$486 for three people from the gross income of \$658 to result in a monthly SOC of \$172. There were no other allowable deductions the petitioner could receive.

4. The petitioner's pharmacy continually sent December 2014 prescription bills to the respondent's bill tracking unit. The Department was unable to complete bill tracking as the pharmacy was sending previously dated requests. The petitioner requested his pharmacy to send current dated requests to the bill tracking unit so the Department can complete the process for him to meet his SOC. The petitioner understands now how to resolve that concern.

CONCLUSIONS OF LAW

5. 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.

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

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

The burden of proof, except where otherwise required by statutes, is on the party asserting the affirmative of an issue. The burden is upon the Department when the Department takes action, which would reduce or terminate the benefits or payments being received by the recipient. The burden is upon the petitioner if an application for benefits or payments is denied. The party having the burden shall establish his/her position, by a preponderance of evidence, to the satisfaction of the hearing officer.

8. The Family-Related Medicaid income 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.

(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.

...
(5) For purposes of paragraph (f)(1) of this section, if, consistent with the procedures adopted by the State in accordance with §435.956(f) of this part, a taxpayer cannot reasonably establish that another individual is a tax dependent of the taxpayer for the tax year in which Medicaid is sought, the inclusion of such individual in the household of the taxpayer is determined in accordance with paragraph (f)(3) of this section.

9. The Department's Program Policy Manual, 165-22, (The Policy Manual)

section 2230.0400 Standard Filing Unit (MFAM) states:

For tax filers, the Standard Filing Unit (SFU) is the tax filing group for the tax year in which eligibility is being determined. Eligibility is determined by each individual using the tax filing group's income. Individuals cannot receive Medicaid benefits under more than one coverage group, but can have their income included in more than one SFU.

10. The Policy Manual section 2230.0402 Parents and Other Caretaker

Relatives (MFAM) states:

If the parent or caretaker expects to file taxes for the tax year in which eligibility is being determined and does not expect to be claimed as a tax dependent by someone else, their SFU contains themselves, their spouse (if living in the home or separated filing taxes jointly), and their claimed tax dependents (living in and outside of the household) as counted individuals.

11. In this case, the Department determined the petitioner's husband's eligibility for Medicaid with a standard filing unit that consisted of three persons. The findings show that the 19-year-old son, who does not reside with the petitioner, will not be claimed by the petitioner on her tax return. Therefore, the undersigned concludes

that the petitioner's Medicaid standard filing unit consists of the petitioner, her husband and their child, age 13.

12. The Policy Manual at Appendix A-7, indicates the Family-Related Medicaid income limit for Parents is \$303 for a family size of three and the Medically Needy Income Limit (MNIL) is \$486 for a family size of three.

13. Federal regulations at 42 C.F.R. § 435.603 Application of modified gross income (MAGI) (d) defines 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.

(2) Income of children and tax dependents. (i) The MAGI-based income of an individual who is included in the household of his or her natural, adopted or step parent and is not expected to be required to file a tax return under section 6012(a)(1) of the Code for the taxable year in which eligibility for Medicaid is being determined, is not included in household income whether or not the individual files a tax return.

(ii) The MAGI-based income of a tax dependent described in paragraph (f)(2)(i) of this section who is not expected to be required to file a tax return under section 6012(a)(1) of the Code for the taxable year in which eligibility for Medicaid is being determined is not included in the household income of the taxpayer whether or not such tax dependent files a tax return.

(3) In the case of individuals described in paragraph (f)(2)(i) of this section, household income may, at State option, also include actually available cash support, exceeding nominal amounts, provided by the person claiming such individual as a tax dependent.

(4) Effective January 1, 2014, in determining the eligibility of an individual using MAGI-based income, a state must subtract an amount equivalent to 5 percentage points of the Federal poverty level for the applicable family size only to determine the eligibility of an individual for medical assistance under the eligibility group with the highest income standard using MAGI-based methodologies in the applicable Title of the Act, but not to determine eligibility for a particular eligibility group.

14. The Policy Manual 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).

15. In this case, the Department considered only the Social Security income in the amount of \$658 to determine the petitioner's eligibility for Medicaid. The Department compared the household income to the Family-Related Income Limit in the amount of \$303 for a family size of three and determined that the petitioner was ineligible for full-coverage Medicaid as the household income exceeded the income limit. According to the above controlling regulations, the undersigned concludes that the Department's action to enroll the petitioner into the Medically Needy Program was correct. The income exceeds the limit for the parent to receive full coverage Medicaid.

16. The Policy Manual at passage 2630.0502 Enrollment (MFAM) states:

If an individual meets the Medically Needy Program's technical eligibility criteria, he is enrolled into the program. There is no income limit for enrollment. The individual is only eligible (entitled to Medicaid) when he has allowable medical bills that exceed the SOC.

The income for an enrolled assistance group need not be verified. Instead, an estimated SOC is calculated for the assistance group. If after bill tracking, it appears the assistance group has met his "estimated" SOC, the unverified income must be verified before the Medicaid can be authorized. An individual is eligible from the day their SOC is met through the end of the month.

17. The Policy Manual at passage 2630.0500 Share of Cost (MFAM) states:

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.

18. Effective January 2014, Appendix A-7 indicates that for a household of three, the MNIL is \$486.

19. According to the above policy, individuals determined ineligible for Medicaid will be enrolled in Medically Needy and referred, and as appropriate, to the Federally Facilitated Marketplace (FFM). Once the income exceeded the limit for full Medicaid, the Department correctly proceeded to enroll petitioner in the Medically Needy Program. The Department correctly subtracted the MNIL in the amount of \$486 for a family of three from the income of \$658 and enrolled the share of cost of \$172 for the petitioner's husband. The undersigned cannot find a more favorable outcome.

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 6th day of March, 2015,

in Tallahassee, Florida.



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