

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

**FILED**

**MAR 19 2015**

OFFICE OF APPEAL HEARINGS  
DEPT OF CHILDREN & FAMILIES

APPEAL NO. 14F-10839

PETITIONER,

Vs.

CASE NO. [REDACTED]

FLORIDA DEPT OF  
CHILDREN AND FAMILIES  
CIRCUIT: 18 Brevard  
UNIT: 55207

RESPONDENT.

**FINAL ORDER**

Pursuant to notice, the undersigned telephonically convened an administrative hearing in the above-referenced matter at 8:20 a.m. on February 10, 2015.

**APPEARANCES**

For the Petitioner: [REDACTED] pro se

For the Respondent: Antonio Burgos, ACCESS  
economic self-sufficiency specialist

**STATEMENT OF ISSUE**

At issue is respondent's action to terminate petitioner's Special Low Income Medicare Part B (SLMB) effective December 31, 2014.

**PRELIMINARY STATEMENT**

By notice dated December 15, 2014 respondent notified petitioner SLMB would terminate effective December 31, 2014. Petitioner timely requested a hearing to challenge the termination.

Petitioner did not submit exhibits into evidence. Respondent submitted four exhibits into evidence, entered as Respondent Exhibits "1" through "4". The record was closed on February 10, 2015.

**FINDINGS OF FACT**

1. Prior to the action under appeal, petitioner received SLMB benefits.
2. On December 10, 2014 petitioner submitted a recertification application to renew SLMB. Petitioner listed \$1,073 Social Security and \$889 long term disability as his monthly income. Petitioner's 2012 and 2013 applications did not list the \$889 long term disability income; it only listed income from Social Security.
3. Medicaid has three types of Buy-In Programs; Qualified Medicare Beneficiary (QMB), SLMB and Qualifying Individual 1 (QI1). Buy-In Programs are Medicaid programs that pay for Medicare Part B premium. To be eligibility for Buy-In Programs an individual cannot exceed the income standard. Individual Buy-In income standards effective January 2015 are: \$990 QMB, \$1,187 SLMB and \$1,335 for QI1.
4. Respondent verified petitioner receives \$1,091 in Social Security, effective December 2014. Respondent determined petitioner's eligibility as follows:

\$1,091	Social Security
+\$ 889	long term disability
\$1,980	total income
-\$ 20	unearned income disregard
\$1,960	total countable income

5. Petitioner's \$1,960 income exceeds the individual income standard for all three Buy-In Programs: \$990 QMB, \$1,187 SLMB and \$1,335 QI1.

6. On December 15, 2014 respondent mailed petitioner a Notice of Case Action terminating SLMB effective December 31, 2014 and denying QI1, "Reason; Your household's income is too high to qualify."
7. Petitioner did not dispute his income amount or Department's calculation. Petitioner believes the Buy-In Program was denied due to his section eight housing eligibility.
8. Respondent explained the denial was due to petitioner's additional \$889 long term disability income that had not been included in previous Buy-In eligibility determinations.

#### **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 Fla. Stat. § 409.285. 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. Admin. Code R. 65A-1.702 Special Provisions explains the Buy-In Programs and in part states:

(12) Limits of Coverage.

(a) Qualified Medicare Beneficiary (QMB). Under QMB coverage, individuals are entitled only to Medicare cost-sharing benefits, including payment of Medicare premiums.

(b) Special Low-Income Medicare Beneficiary (SLMB). Under SLMB coverage, individuals are entitled only to payment of the Part B Medicare premium. If eligible, AHCA shall pay the premium for up to three months retroactive to the month of application...

(d) Part B Medicare Only Beneficiary (QI1). Under QI1 coverage, individuals are only entitled to payment of their Medicare Part B premium. (This is coverage for individuals who would be eligible for QMB or SLMB coverage except their income exceeds limits for those programs.)...

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

(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...

(b) For QMB, income must be less than or equal to the federal poverty level...

(g) For SLMB, income must be greater than 100 percent of the federal poverty level but equal to or less than 120 percent of the federal poverty level...

(j) For a Qualified Individual 1 (QI1), income must be greater than 120 percent of the federal poverty level, but equal to or less than 135 percent of the federal poverty level. QI1 is eligible only for payment of the Part B Medicare premium through Medicaid...

14. ACCESS Florida Program Policy Manual, Appendix A-9, identifies individual Buy-In income standards effective January 2015:

QMB	\$990
SLMB	\$1,187
QI1	\$1,335

15. Federal regulation at 20 C.F.R. § 416.1124(c) (12) establishes a \$20 disregard for "the first \$20 of any unearned income in a month". Respondent deducted \$20 from petitioner's \$1,980 to arrive at \$1,960 countable income.

16. In careful review of the cited authorities, evidence and testimony, the undersigned concludes respondent followed rule in terminating petitioner's SLMB and denying QI1; due to exceeding the income standards.

**DECISION**

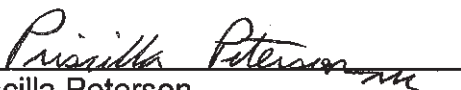
Based upon the foregoing Findings of Fact and Conclusions of Law, the appeal is denied and respondent's action affirmed.

**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 15<sup>th</sup> day of March, 2015,

in Tallahassee, Florida.

  
Priscilla Peterson  
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:  Petitioner  
Office of Economic Self Sufficiency