

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

FILED

JUN 10 2014

OFFICE OF APPEAL HEARINGS  
DEPT OF CHILDREN & FAMILIES



APPEAL NO. 14F-02057

PETITIONER,

Vs.

CASE NO. 

FLORIDA DEPARTMENT OF  
CHILDREN AND FAMILIES  
CIRCUIT: 11 Dade  
UNIT: 66702

RESPONDENT.

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**FINAL ORDER**

Pursuant to notice, the undersigned convened an administrative hearing in the above-referenced matter on April 14, 2014 at 11:35 a.m. All parties appeared telephonically from different locations.

**APPEARANCES**

For the Petitioner:  pro se.

For the Respondent: Yvonne Owens, ACCESS senior worker.

**STATEMENT OF ISSUE**

The issue is whether the Department correctly determined the Medically Needy Program share of cost (SOC).

**PRELIMINARY STATEMENT**

On March 18, 2014, petitioner requested an appeal to challenge his \$1,313 SOC amount. No Notice of Case action was provided.

During the hearing, the petitioner did not submit any evidence for the undersigned to consider. The Department's evidence was accepted into evidence and marked as Respondent's Composite Exhibit 1. The record was left open through April 18, 2014 for the petitioner to provide additional evidence for the Department to consider. No information was received. Neither the petitioner nor respondent contacted the undersigned for additional time. The record was closed on April 18, 2014.

#### **FINDINGS OF FACT**

1. The petitioner is 59 years old (DOB 2/10/1955) and has been determined disabled by Social Security Administration (SSA). Petitioner received Supplemental Security Income (SSI) Medicaid through February 2014.
2. Petitioner receives \$1,513 in Social Security Disability Income (SSDI). Petitioner is not yet eligible for Medicare benefits.
3. On November 13, 2013, the petitioner applied for benefits and did not report any recurring medical expenses.
4. The petitioner lives independently and does not participate in the Hospice Program, Home and Community Based Services Medicaid Waiver Program or the Institutional Care Program. The Department's representative explained its action to enroll the petitioner in the Medically Needy Program with a share of cost. The share of cost amount is directly dependent on the petitioner's income.
5. To begin the budgeting process for the petitioner for the Medically Needy, the Department counted monthly income of \$1,513. In this Program, there is a \$20 standard income disregard; the result is compared to the Eligibility Standard for SSI-Related Programs income limit for a household of one (\$856). Since the petitioner's

income after the deduction is \$1,493 (\$1,513 minus \$20) exceeds that amount, the Department proceeded to explore further Medicaid eligibility by deducting the \$180 Medically Needy Income Level deduction for one person from his resulting income. After these deductions, the share of cost was determined to be \$1,313. The Department used the same methodology for January 2014 using petitioner's \$1,513 SSDI amount and determined his share of cost to be \$1,313 (Respondent's Composite Exhibit 1).

6. The petitioner did not dispute the income amount used by the Department in the eligibility process. He asserted that his SOC is too high and he cannot afford that much of a monthly expense on a fixed income. He explained that when he tried to fill his prescriptions in March 2014, he was informed that his Medicaid was terminated. He said he does not currently have any medical expenses because his friend has been paying for his prescriptions. He argued that the Medically Needy Program is not good for him. He explained that he has been avoiding going to the doctors for some much needed care and he does not want to lose more of his leg to MERSA, which requires intravenous antibiotics.

7. The Department's representative explained that petitioner does not have the obligation to spend his actual SOC each month if he has no medical expenses. She explained how the share of cost was determined and how it could be met. Petitioner was reminded to submit all outstanding medical bills to the Department when he incurs them, so that it can be determined when the share of cost is met and when Medicaid coverage could begin.

**CONCLUSIONS OF LAW**

8. 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.

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

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

11. The Department determines Medicaid eligibility based on the household circumstances. When the household consists of parents and children, Medicaid eligibility is determined under Family-Related Medicaid policy. When the household consists of an elderly or disabled individual or couple, Medicaid eligibility is determined under Adult-Related Medicaid policy (also referred to as SSI-Related Medicaid or Medically Needy). Medicaid eligibility is based on federal regulations.

12. Fla. Admin. Code R. 65A-1.701, Definitions, states:

(20) MEDS-AD Demonstration Waiver: Medicaid coverage group for aged or disabled individuals who meet all SSI-related Medicaid non-financial eligibility criteria, whose resources do not exceed the limit in the Medically Needy Program, whose income is at or below 88 percent of the federal poverty level and are not receiving Medicare or if receiving Medicare are also eligible for Medicaid covered institutional care services, hospice services or home and community based services...

13. The above authority explains that the MEDS-AD (full Medicaid for an aged or disabled person) has an income limit of 88% of the federal poverty level (\$856) effective January 2014, according to the Department's ACCESS Florida Policy Manual, Appendix

A-9. The petitioner's countable income after the \$20 deduction is \$1,493 for March 2014, which exceeds the standard for full Medicaid benefits. Petitioner is not receiving Medicare but his income is in excess of the Program limit to receive full Medicaid benefits.

14. The Medically Needy Program provides coverage for individuals who meet the technical requirements for Medicaid but whose income or assets exceed the income limits.

15. Fla. Admin. Code 65A-1.710, SSI-Related Medicaid Coverage Groups, states in part:

The department covers all mandatory coverage groups and the following optional coverage groups:

(1) MEDS-AD Demonstration Waiver. A coverage group for aged and disabled individuals (or couples), as provided in 42 U.S.C. § 1396a(m)...

(5) Medically Needy Program. A Medicaid coverage group, as allowed by 42 U.S.C. §§ 1396a and 1396d, for aged, blind or disabled individuals (or couples) who do not qualify for categorical assistance due to their level of income or resources. The program does not cover nursing facility care, intermediate care for the developmentally disabled services, or other long-term care services...

(30) Share of Cost (SOC): SOC represents the amount of recognized medical expenses that a Medically Needy enrolled individual or family must incur each month before becoming eligible to receive Medicaid benefits for medical expenses incurred during the remainder of the month.

16. The above authorities also define Medically Needy and Share of Cost (SOC). SOC represents the amount of recognized medical expenses that a Medically Needy enrolled individual or family must incur each month before becoming eligible to receive Medicaid benefits. This program is available for aged or disabled individuals or eligible couples who do not qualify for the MEDS-AD Program.

17. Fla. Admin. Code R. 65A-1.716 (2), Income and Resource Criteria, sets forth the MNIL for an individual at \$180.

18. Federal regulations at 20 C.F.R. § 416.1124, Unearned income we do not count, states, "(c)(12) The first \$20 of any unearned income in a month..."

19. The above-cited rules explain the budgeting procedure to determine the share of cost. The gross income is reduced by a standard deduction (\$20) and the MNIL for the assistance group size of one at \$180. The Department followed this procedure and determined the share of cost at \$1,313.

20. Based on the evidence, testimony, and the controlling authorities, the undersigned concludes that the Department correctly determined that the petitioner is not eligible for full Medicaid benefits and should be enrolled in the Medically Needy Program. No errors were found in the calculation of the amount of the share of cost.

### **DECISION**

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

### **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.

FINAL ORDER (Cont.)

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DONE and ORDERED this 10<sup>th</sup> day of June, 2014,

in Tallahassee, Florida.



Roosevelt Reveil

Hearing Officer

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