

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

FILED

JUN 06 2014

OFFICE OF APPEAL HEARINGS
DEPT OF CHILDREN & FAMILIES

APPEAL NO. 14F-02366

PETITIONER,

Vs.

CASE NO. [REDACTED]

FLORIDA DEPT OF CHILDREN AND FAMILIES

CIRCUIT: 08 Bradford

UNIT: 88317

RESPONDENT.

FINAL ORDER

Pursuant to notice, the undersigned convened an administrative hearing in the above-referenced matter on May 7, 2014, at 11:30 a.m., with all parties appearing telephonically.

APPEARANCES

For the Petitioner: [REDACTED]

For the Respondent: Viola Dickinson, economic self sufficiency specialist II.

STATEMENT OF ISSUE

At issue is the Department action to enroll the petitioner in the Medically Needy Program with a share of cost (SOC), as opposed to receiving Medicaid without share of cost. The petitioner has the burden of proof.

PRELIMINARY STATEMENT

[REDACTED] was present as an observer.

The respondent filed an oral Motion to Dismiss based on the Department's assertion that the petitioner has not filed a timely hearing request. The petitioner's

Medicaid benefits were cancelled in October 2013 starting November 2013. The petitioner pointed out that her hearing request was based on the Department's Notice dated in February 2014. The respondent's Motion is denied and the merits of the case will be addressed.

FINDINGS OF FACT

1. The petitioner is sixty-two years of age; is disabled and lives with her husband.
2. The Department submitted into evidence, Respondent Composite Exhibit 1. This exhibit contains a copy of a SSI Related Medicaid eligibility budget sheet. The petitioner's husband receives \$941 in Social Security benefits. The petitioner receives \$240 in Social Security retirement benefits. The above noted "budget" sheet indicates that the respondent included \$1,181 as the petitioner's household total unearned income. The respondent then subtracted the \$20 disregard from the \$1,181 to arrive at the petitioner's countable unearned income amount of \$1,161 and considered it as the petitioner's total countable income. Next, the medically needy income amount of \$241 (the \$241 represents an MNIL amount for a household of two individuals) was subtracted from \$1,161 to arrive at the share of cost amount of \$920 for the petitioner. This amount is also considered the remaining estimated share of cost amount.
3. The above noted remaining share of cost amount is an increase amount as the petitioner started to receive Social Security retirement income recently when she turned 62 years of age. The petitioner is; however, appealing the fact that she has a share of cost as opposed to receiving Medicaid without a share of cost. She also does

not dispute the amount the Department included in their budget process of her and her husbands' income amounts.

4. The respondent representative explained how the share of cost and "bill tracking" process works to the petitioner and provided her the "bill tracking" unit telephone number. The petitioner, though disagreeing with the Department action not to provide her with Medicaid without a share of cost, agreed to try to the above noted "bill tracking" process.

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 § 409.285, Fla. Stat.

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

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

8. 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.

9. Federal Regulations at 45 C.F.R. §435.500 sets forth the regulations for requirements for determining the eligibility of both categorically and medically needy individuals. 45 C.F.R. §435.520 states, "The agency must not impose an age requirement of more than 65 years." The regulation continues at 45 C.F.R. §435.541 to define disability as either determined by the Social Security Administration (SSA) or the Medicaid agency.

10. In this case, petitioner has been determined disabled by the SSA. For the SSI-Related Medicaid programs, an individual must be either aged 65 or older or determined disabled by the SSA or the Department. Based on this regulation, the Department determined Medicaid eligibility for petitioner and approved her for SSI-Related Medically Needy Program benefits.

11. 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...

12. 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 (\$843) prior to January 1, 2014 and (\$856) effective January 2014, according to the Department's ACCESS Florida Policy Manual, Appendix A-9.

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

14. 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.

15. 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.

16. Fla. Admin. Code R. 65A-1.716 (2), Income and Resource Criteria, sets forth the MNIL for an individual at \$180 and a couple at \$241. As the petitioner is married and living with her husband; the Department used the "couple" amount for this determination.

17. Federal regulations at 20 C.F.R. § 416.1124, unearned income not counted, states, "(c) (12); the first \$20 of any unearned income in a month..."

18. 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 two at \$241. The Department followed this procedure and determined the estimated share of cost at \$920.

19. The petitioner argued that based on the Department's action she has not been able to pay for her prescriptions and to go to her doctor appointments. The respondent argued that the Department's action is correct based on the petitioner's total household income minus the pertinent deductions. The respondent provided information regarding the "bill tracking" process and the petitioner agreed to try and follow this process.

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, this appeal is DENIED and the Department action affirmed.

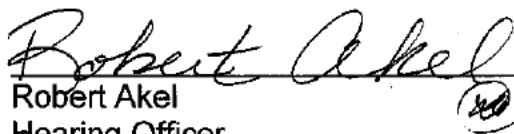
NOTICE OF RIGHT TO APPEAL

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 6th day of June, 2014,

in Tallahassee, Florida.



Robert Akel
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: [REDACTED] Petitioner
ACCESS Circuit 8 - Lynn Dann