

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

FILED

AUG 19 2014

OFFICE OF APPEAL HEARINGS
DEPT OF CHILDREN & FAMILIES



APPEAL NO. 14F-02812

Vs. PETITIONER,

CASE NO. 

FLORIDA DEPARTMENT OF
CHILDREN AND FAMILIES
CIRCUIT: 20 Lee
UNIT: 88287

RESPONDENT.
_____ /

FINAL ORDER

Pursuant to notice, the undersigned convened a telephonic administrative hearing in the above-referenced matter on July 15, 2014, at 8:35 a.m.

APPEARANCES

For the Petitioner: 

For the Respondent: Raymond Muraída, economic self-sufficiency senior human services program specialist

STATEMENT OF ISSUE

The petitioner is appealing the respondent's denial of Medicaid, enrollment in the Medically Needy Program and the monthly share of cost.

PRELIMINARY STATEMENT

On April 11, 2014, the petitioner timely requested a hearing. The hearing was scheduled for June 4, 2014, and rescheduled twice at the request of the petitioner.

The petitioner did not presented any exhibits into evidence. The respondent presented 10 exhibits which were accepted into evidence and marked as Respondent Exhibits "1" through "10" respectively.

FINDINGS OF FACT

1. On January 9, 2014, the petitioner reapplied for Medicaid Program benefits for herself. The petitioner is receiving \$1,327 in Social Security benefits, and Medicare Part B. The petitioner was enrolled in Medicaid Medically Needy Program. The State was authorizing payment of the petitioner's Medicare Part B payment through the Medicaid Qualifying Individual 1 Program.

2. The respondent reviewed the application. As the petitioner was the only disabled individual and she did not have any children of her own under the age of 21 living in her home, the respondent considered her to be a disabled assistance group of one. The respondent used a computer match information with Social Security to verify the petitioner's Social Security benefits or SSI benefits.

3. The respondent used that income information and determined that the petitioner's monthly household income of \$1,327 exceeded the eligibility limits of \$856 for the petitioner to be eligible for full Medicaid Program benefits.

4. The respondent determined that the petitioner was eligible for enrollment in the Medicaid Medically Needy Program. Using the monthly gross household income of \$1,327, the respondent determined that after a \$20 disregard, and a \$180 Medically Needy Income Level (MNIL) deduction, the estimated monthly share of cost would be \$1,127. On January 27, 2014, the respondent sent the petitioner a Notice of Case Action. The notice informed the petitioner that her application for full Medicaid Program

benefits was denied, she was enrolled in a Medicaid Medically Needy Program effective January 2014, and the respondent remained eligible for Qualifying Individual 1 Program benefits.

5. The petitioner asserted as follows. She wants full Medicaid Program benefits due to her health issues of from liver disease. She wants to try a new medication and cannot afford the share of cost after she pays rent, insurance and home insurance. She also needs an MRI. She has no secondary medical insurance. If she is not eligible for full Medicaid Program benefits, she is requesting assistance in any other Program.

CONCLUSIONS OF LAW

6. The Department of Children and Families, Office of Appeal Hearings has jurisdiction over the subject matter of this proceeding and the parties, pursuant to § 409.285, Fla. Stat. This order is the final administrative decision of the Department of Children and Families under Fla. Stat. § 409.285.

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

8. At the hearing, the burden of proof was assigned to the petitioner for her request for full Medicaid Program benefits. However, in accordance with Fla. Admin. Code R. 65-2.060(1), the burden of proof is assigned to the respondent.

9. The full disability-related Medicaid category under the MEDS-AD is described in the Fla. Admin. Code R. 65A-1.701

(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...**(emphasis added)

10. Income budgeting for MEDS-AD is set forth in Fla. Admin. Code R.

65A-1.713:

(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, et seq...

(4) Income Budgeting Methodologies. To determine eligibility SSI budgeting methodologies are applied except where expressly prohibited by 42 U.S.C. §1396, or another less restrictive option is elected by the state under 42 U.S.C. §1396a(r)(2)...

11. The Fla. Admin. Code R 65A-1.716, Income and Resource Criteria, sets forth:

(1) The monthly federal poverty level figures based on the size of the filing unit are as follows...size one...\$843...

(2) Medicaid income and payment eligibility standards and Medically Needy income levels are by family size as follows...Family Size...1...Monthly Income Level...\$180...

12. The maximum income for MEDS-AD is 88 percent of the federal poverty level. The ACCESS Program Policy Manual as Appendix A-9 indicated that 88 percent of the poverty level for an assistance group of one was \$843 and increased to \$856 effective January 2014.

13. The hearing officer did consider the petitioner's testimony she needs medical attention, and she does not have the funds to pay his medical bills. The petitioner is eligible for a category of Medicaid based on her disability. However, the rule indicates that full Medicaid Program benefits are based on monthly gross household income, and

individual receiving Medicare are not eligible for full Medicaid Program benefits. The petitioner's monthly income of \$1,327 exceeds the income limits for a one of \$856 for the petitioner to be eligible for full Medicaid Program benefits. Additionally, the petitioner is receiving Medicare; therefore, she is not eligible for full Medicaid Program benefit. A review of the rules and regulations did not find any exception to meeting the income limits for the Program. It is concluded that the respondent's action to deny the petitioner full Medicaid Program benefits was within the rules of the Program.

14. The petitioner is eligible for enrollment in a Medicaid Medically Needy Program with a share of cost. The income calculation for Medically Needy Program benefits is set forth in the Fla. Admin. Code R. 65A-1.713: "(h) For Medically Needy, income must be less than or equal to the Medically Needy income standard after deduction of allowable medical expenses."

15. The ACCESS Program Policy Manual at passage 2440.0102, Medically Needy Income Limits (MSSI) states:

When the assistance group has met the technical eligibility criteria and the asset limits, it is enrolled. There is no income limit for enrollment. The assistance group is income eligible (entitled to Medicaid) once income is less than or equal to the Medically Needy Income Level (MNIL) or medical bills equal the amount by which his income exceeds the MNIL. Once medical bills are equal to this surplus income, referred to as share of cost, the assistance group is eligible. The eligibility specialist must determine eligibility for Medically Needy any time the assistance group's income exceeds the income limits for another full Medicaid Program...

16. The methods of determining the share of cost is set forth in the Fla. Admin. Code R. 65A-1.713:

(c) Medically Needy. The amount by which the individual's 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...

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

18. The determination of the share of cost is the gross income, less the MNIL of \$180, a \$20 standard deduction, and any medical insurance deduction. The petitioner indicated that she was not paying any medical insurance. The petitioner's monthly income of \$1,327 less the MNIL of \$180, and less the \$20 standard deduction equals a share of cost of \$1,127. A review of the rules and regulations did not find any exception to this formula. It is concluded that the petitioner's share of cost was \$1,127 a month effective January 2014.

19. It is concluded that the respondent's actions to deny full Medicaid Program benefits, enroll the petitioner in a Medicaid Medically Needy Program and determine a share of cost of \$1,127 were within the rules of the Program.

20. The hearing officer considered the petitioner's request for assistance in any other Program. The petitioner is enrolled in a Medicaid Medically Needy Program and the State is authorizing payment of the petitioner's Medicare Part B premium. After a review of all Medicaid Programs, it is concluded that the petitioner is not eligible for any additional assistance under any other Medicaid Program.

DECISION

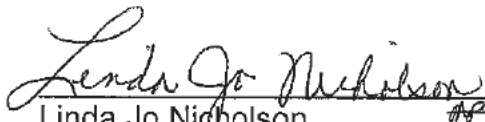
Based upon the foregoing Findings of Fact and Conclusion of Law, the appeal is denied.

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 19th day of August, 2014,

in Tallahassee, Florida.


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