

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

FILED

JUL 07 2014

OFFICE OF APPEAL HEARINGS
DEPT OF CHILDREN & FAMILIES



APPEAL NO. 14F-03265

PETITIONER,

Vs.

CASE NO. 


FLORIDA DEPT OF
CHILDREN AND FAMILIES
CIRCUIT: 09 Orange
UNIT: 66292

RESPONDENT.

FINAL ORDER

Pursuant to notice, the undersigned convened an administrative hearing in the above-referenced matter on June 12, 2014 at 1:30 p.m. in Orlando, Florida.

APPEARANCES

For Petitioner:  Daughter

For Respondent: Evelyn Ross, ACCESS Supervisor

STATEMENT OF ISSUE

At issue is Respondent's action in denying the Petitioner full Medicaid Program benefits and enrollment in the Medically Needy Program with a monthly share of cost of \$418 from January 2014 through March 2014 and \$1,534 from April 2014 ongoing.

PRELIMINARY STATEMENT

Appearing as a witness for the Petitioner was  his son. The Petitioner was also present.

Respondent's exhibits 1 through 9 were entered into evidence.

The record was left open until June 26, 2014 for Petitioner to file any additional documentation. No further information was filed.

FINDINGS OF FACT

Based upon the oral and documentary evidence presented at the final hearing and on the entire proceeding, the following Findings of Fact are made:

1. Petitioner is a 61 year-old male who was diagnosed with cancer in the oral cavity in September 2013. He underwent surgery on December 16, 2013 and is unable to speak at this moment.

2. On January 7, 2014, Petitioner submitted an electronic application with the Department of Children and Families ("DCF" or "Department") for Medicaid and Food Assistance Program benefits.

3. On April 3, 2014, DCF informed Petitioner that his application for Medically Needy was approved and his estimated share of cost from January 2014 through March 2014 is \$418 and his share of cost from April 2014 ongoing is \$1,534.

4. Petitioner previously finished chemotherapy and radiation treatment and has other outstanding bills and reoccurring expenses. These expenses were not calculated in meeting the share of cost. Past medical expenses listed on the DCF application were not considered by the Department.

5. Petitioner has active private insurance and is paying medical premiums, which should be calculated in meeting the share of cost.

6. Respondent asserts the share of cost was increased to \$1,534 in April 2014 due to Petitioner's receipt of disability income. Petitioner asserts the disability income was not received until June 2014.

7. The Department asserts no supervisory review was completed on this case because they never received a designated representative form. Petitioner presented Respondent with a completed designated representative form in open hearing.

8. The Department failed to review Petitioner's case for retroactive Medicaid benefits as requested on the DCF application.

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 § 409.285, Fla. Stat. 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 petitioner.

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

13. The evidence shows the Department failed to review Petitioner's application for retroactive benefits as requested on the application. Under these circumstances, the undersigned finds it appropriate to remand the case for the Department to complete a review for retroactive benefits. Upon completion, the

Department shall issue a new notice to the Petitioner informing him of his appeal rights.

14. Based on the totality of the evidence provided, the undersigned concludes the Department's action in this matter was incorrect.

DECISION

Based upon the foregoing Findings of Fact and Conclusions of Law, the Petitioner's appeal is GRANTED to the extent the claim will be remanded to the Department to complete a review of Medicaid benefits, including retroactive benefits.

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 7th day of July, 2014,

in Tallahassee, Florida.

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