

FILED

JUL 22 2014

OFFICE OF APPEAL HEARINGS
DEPT OF CHILDREN & FAMILIES

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



APPEAL NO. 14F-03539

PETITIONER,

Vs.

CASE NO. 1




FLORIDA DEPARTMENT OF
CHILDREN AND FAMILIES
CIRCUIT: 10 Hardee
UNIT: 88584

RESPONDENT.

FINAL ORDER

Pursuant to notice, the undersigned convened an administrative hearing in the above-referenced matter on June 10, 2014 at 2:00 p.m. All parties appeared by telephone from different locations.

APPEARANCES

For the petitioner:  pro se.

For the respondent: Tia Island-Hooker, ACCESS Supervisor.

STATEMENT OF ISSUE

At issue is the start date of full Medicaid benefits in the Medically Needy (MN) Program once the Share of Cost (SOC) is met.

PRELIMINARY STATEMENT

By Notice of Case Action dated April 19, 2014, the Department informed the petitioner that her SOC amount was \$1,239. The petitioner timely requested a hearing on April 25, 2014.

The petitioner submitted no evidence for the undersigned to consider. The Department presented a total of 31 pages which were accepted into evidence and marked as Respondent's Composite Exhibit 1.

FINDINGS OF FACT

1. The petitioner submitted an application for recertification of Food Assistance Program (FAP) and Medicaid benefits on April 18, 2014 for herself. The petitioner is a 50-year-old disabled adult receiving Social Security Disability Income (SSDI) benefits in the gross amount of \$1,439 per month. She does not receive Medicare benefits.

2. The petitioner received a Notice of Case Action dated May 21, 2014 stating that her MN SOC was met and that Medicaid was open from May 17, 2014 through May 31, 2014. The petitioner's prescription medications are not able to be filled until the 15th of each month. This leaves the petitioner with a short period with full Medicaid coverage open. She is asking that the Department change the eligible coverage dates to begin the 15th of each month instead of the 1st of each month.

3. The Department testified that the first day of the month is used for all MN recipients and cannot be changed for any reason. The Department advised the petitioner to either fill a smaller prescription to cover the last two weeks of the month and begin to fill her full prescriptions on the first of the next month, or to wait to fill her prescriptions until the first of the month. The petitioner stated that waiting to fill the prescriptions would place an undue burden on her.

4. The Department used the petitioner's gross SSDI benefits of \$1,439 to calculate her SOC amount. The petitioner was given an unearned disregard of \$20,

which resulted in a total countable income of \$1,419. The Department subtracted the Medically Needy Income Limit (MNIL) for a one-person household of \$180 from the total countable income to determine the petitioner's SOC as \$1,239.

5. The petitioner does not dispute the calculation of the SOC amount but is concerned about the dates that her Medicaid coverage begins, as her prescriptions cannot be filled until the 15th of each month.

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 Fla. Stat § 409.285. 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 respondent. Upon further review, and in accordance with Fla. Admin. Code R. 65-2.060 (1), the burden of proof is now assigned to the petitioner.

9. The Fla. Admin. Code R. 65-2.060 "Evidence", defines burden of proof as follows:

(1) The burden of proof, except where otherwise required by statutes, is on the party asserting the affirmative of an issue. The burden is upon the Department when the Department takes action which would reduce or terminate the benefits or payments being received by the recipient. The party having the burden shall establish his/her position, by a preponderance of evidence, to the satisfaction of the hearing officer.

10. The Fla. Admin. Code R. 65A-1.702 addresses "Special Provisions" and states:

(2) Date of Eligibility. The date eligibility for Medicaid begins. This was formerly called the date of entitlement. The date of eligibility includes the three months immediately preceding the month of application (called the retroactive period). Eligibility for Medicaid begins the first day of a month if an individual was eligible any time during the month, with the following exceptions:

(b) Individuals applying for the Medically Needy program become eligible on the date they incurred allowable medical expenses, excluding payments by all third party sources except state or local governments not funded in full by federal funds, equal their share of cost, provided that all other conditions of eligibility are met. Any bill used in full to meet the individual's share of cost (SOC) shall not be paid by Medicaid.

11. The above-cited authority states that the date of eligibility for Medicaid begins once the recipient meets their SOC.

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

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

Florida Administrative Code 65A-1.702 Special Provisions states in part:

(13) Determining Share of Cost. The SOC is determined by deducting the Medically Needy income level from an individual's or family's income.

13. The above-cited authority states that a recipient of the MN program must submit their medical bills to the Department so that they can be bill tracked. Once the bills tracked meet the SOC, then full Medicaid coverage is open for the remainder of that month. This process begins the first of each calendar month and ends with last day of that month.

14. Fla. Admin. Code R. 65A-1.713 SSI-Related Medicaid Income Eligibility

Criteria states in part:

(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: (h) For Medically Needy, income must be less than or equal to the Medically Needy income standard after deduction of allowable medical expenses.

(4)(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. If countable income exceeds the Medically Needy income level the department shall deduct allowable medical expenses in chronological order, by day of service.

15. The Fla. Admin. Code R. 65A-1.716 Income and Resource Criteria, sets forth \$856 as 88% of the federal poverty level and the Medically Needy Income Limit \$180 for an individual. Petitioner's SSDI of \$1,439 exceeds 88% of the federal poverty level. In accordance with the above authority, petitioner is not eligible for full Medicaid.

16. After considering the evidence and the ruled cited above, the hearing officer concludes the Department's action to enroll the petitioner in the SSI-Related Medically Needy Program with a share of cost of \$1,239 starting May 2014 is correct. The above-cited authorities also state that the bills submitted for bill tracking in the MNPprogram are deducted in chronological order by the date of service. Therefore, the Department cannot open Medicaid for the petitioner prior to meeting her SOC. The undersigned cannot find a more favorable outcome for the petitioner.


DECISION

Based upon the foregoing Findings of Fact and Conclusions 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 2nd day of July, 2014,
in Tallahassee, Florida.


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