

FILED

JUL 31 2014

OFFICE OF APPEAL HEARINGS
DEPT OF CHILDREN & FAMILIES

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



APPEAL NO. 14F-03542

PETITIONER,

Vs.

CASE NO. 

FLORIDA DEPARTMENT OF
CHILDREN AND FAMILIES
CIRCUIT: 15 Palm Beach
UNIT: 88593

RESPONDENT.

FINAL ORDER

Pursuant to notice, the undersigned convened a telephonic administrative hearing in the above-referenced matter on June 17, 2014 at 8:53 a.m.

APPEARANCES

For the Petitioner: 

For the Respondent: Ortense Bailey, ACCESS supervisor

STATEMENT OF ISSUE

The petitioner is appealing the respondent's action to enroll him in the Medically Needy Program. He is seeking full Medicaid or a lower share of cost.

PRELIMINARY STATEMENT

The respondent presented one composite exhibit, which was accepted and entered into evidence as Respondent's Composite Exhibit 1. The petitioner did not present any exhibits. The record was left open until the close of business on June 17,

2014 for the budget and Medicaid income limits. The information was received and entered into evidence as Respondent's Exhibit 2, and the record was closed.

FINDINGS OF FACT

1. On February 7, 2014, the petitioner submitted an application for Medicaid benefits. The petitioner's household consists of only himself [REDACTED]. He was determined disabled and is receiving Social Security Disability Income (SSDI) of \$991. The petitioner is not currently receiving Medicare benefits.
2. The respondent determined the petitioner's household income exceeded the income limit for full Medicaid benefits and enrolled him in the Medically Needy Program with a share of cost (SOC).
3. The respondent performed the following budget calculations when it determined the petitioner's estimated SOC. A \$20 unearned income disregard was subtracted from the petitioner's SSDI of \$991 and resulted in countable unearned income of \$971. The Medically Needy Income Level for one person, \$180 was subtracted resulting in the petitioner's final SOC of \$791 in the SSI-Related Medically Needy Program (Respondent's Exhibit 2).
4. By notice dated March 11, 2014, the respondent notified the petitioner his application for Medically Needy SOC was approved. The notice informed him that his estimated SOC was \$791 for March 2014 and ongoing.
5. On May 5, 2014, the petitioner requested an administrative hearing to challenge the decision.

6. The petitioner's explained he is very ill and needs medication. He further explained he cannot meet his monthly SOC because it was too high. He is unable to pay for medication and also pay for living expenses.

CONCLUSIONS OF LAW

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

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

9. In accordance with Fla. Admin. Code R. 65-2.060(1), the petitioner has the burden of proof.

10. The petitioner has been determined disabled by Social Security. His Medicaid eligibility was determined under the SSI-Related Medicaid Program.

11. Fla. Admin. Code at R. 65A-1.711 (1) SSI-Related Medicaid Non Financial Eligibility Criteria, states, "For MEDS-AD Demonstration Waiver, the individual must be age 65 or older, or disabled as defined in 20 C.F.R. §416.905..."

12. Income budgeting for MEDS-AD is set forth in Fla. Admin. Code R. 65A-1.713. It states:

(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. §1396(2000 Ed., Sup. IV)...

13. 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..."

14. The ACCESS Program Policy Manual, Appendix A-9, identifies 88 % of the federal poverty level for SSI-Related Medicaid under the MEDS-AD Program at \$856 effective January 2014. The petitioner's total countable income \$971 (after \$20 disregard) exceeds the income standard for full MEDS-AD as listed above. The respondent's action to deny full Medicaid Program benefits for the petitioner was within the rules and regulation of the Program. The petitioner is not eligible for full coverage Medicaid under MEDS-AD.

15. A review of the rules and regulations did not find any exception to meeting the income limits for the Program.

16. Fla. Admin. Code R. 65A-1.710, SSI-Related Medicaid coverage Groups, states in part:

(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.

17. The above authority explains that the Medically Needy Program is a coverage group for aged, blind or disabled individuals who do not qualify for full Medicaid due to their level of income.

18. Fla. Admin. Code R. 65A-1.702 (13) Determining Share of Cost (SOC). The SOC is determined by deducting the Medically Needy Income Level from the individual's or family's income.

19. Fla. Admin. Code R. 65A-1.701 (30) defines Share of Cost (SOC) as:

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.

20. The methods of determining the share of cost for Medically Needy Program benefits is set forth in the Fla. Admin. Code R. 65A-1.713. It states:

(1) (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 countable 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 cost...

21. Fla. Admin. Code R. 65A-1.716 (2), Income and Resource Criteria, states, "Medicaid income and payment eligibility standards and Medically Needy income levels are by family size as follows: Size 1 Level \$180."

22. The ACCESS Program Policy Manual 165-22 The (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.

23. The undersigned reviewed the respondent's budget calculations and the petitioner's reported income using the rules cited above and did not find a more favorable outcome than the SOC assigned by the respondent. Eligibility for a lower share of cost is not found.

24. The undersigned concludes the respondent's action to deny full Medicaid benefits and to enroll the petitioner in the Medically Needy Program with the estimated SOC of \$791 is within the rules of the Program.

DECISION

Based upon the 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 31st day of July, 2014,

in Tallahassee, Florida.

Christiana Gopaul-Narine

Christiana Gopaul-Narine

Hearing Officer

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