

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

**FILED**

JUN 27 2014

OFFICE OF APPEAL HEARINGS  
DEPT OF CHILDREN & FAMILIES

[REDACTED]  
APPEAL NO. 14F-04414  
APPEAL NO. 14F-04415

PETITIONER,

Vs.

CASE NO. [REDACTED]

FLORIDA DEPT OF CHILDREN AND FAMILIES  
CIRCUIT: 13 Hillsborough  
UNIT: 883DT

RESPONDENT.  
\_\_\_\_\_ /

**FINAL ORDER**

Pursuant to notice, the undersigned convened a telephonic administrative hearing in the above-referenced matter on June 19, 2014 at 1:32 p.m. All parties appeared in different locations by phone.

**APPEARANCES**

For Petitioner: [REDACTED] petitioner

For Respondent: Raymond Muraida, Senior Human Service Program Specialist with the ACCESS program

**STATEMENT OF ISSUE**

At issue was whether the respondent's action to deny full Medicaid benefits for petitioner's wife and instead enroll her in the Medically Needy Program with a share of cost amount of \$1,166.00 effective April 2014 is correct.

**PRELIMINARY STATEMENT**

By notice dated May 7, 2014, the respondent notified petitioner that his wife's share of cost amount effective April 25, 2014 and ongoing is \$1,166.00. Petitioner timely requested a hearing to challenge his wife's enrollment in the Medically Needy Program. The petitioner had initially requested a hearing challenging his Food Assistance benefits. Petitioner withdrew his Food Assistance (FA) appeal as his FA issue was resolved prior to the hearing by receiving an increase in his FA benefits to \$186.00 per month. The only issue pending before the undersigned is petitioner's wife's enrollment in the Medically Needy Program.

Petitioner was present and testified. Petitioner submitted one exhibit, which was accepted into evidence and marked as Petitioner's Exhibit "1". The respondent was represented by Raymond Muraida with the Department of Children and Families (hereafter "DCF", "Respondent" or "Agency"). Respondent submitted nine exhibits, which were accepted into evidence and marked as Respondent's Exhibits "1" through "9".

**FINDINGS OF FACT**

1. Petitioner's household includes petitioner and his wife. Petitioner's wife is disabled and receives Social Security Disability Insurance (SSDI) through the Social Security Administration (SSA). There are no minor children in the home.
2. On April 25, 2014, petitioner submitted an application for Medicaid. The application listed the household's only income as his wife's Social Security income. The application also listed petitioner's child, who is over the age of 21, living in the home;

however, petitioner indicated at the hearing that the household only consists of him and his wife.

3. Petitioner's wife receives \$1,366.00 per month in SSDI. She does not receive Medicare part A or B.

4. On May 7, 2014, respondent mailed petitioner a Notice of Case Action that indicated petitioner's Medically Needy application dated April 25, 2014 was approved and petitioner's wife was eligible for an estimated share of cost amount of \$1,166.00 for April 2014 and ongoing.

6. Respondent determined petitioner's wife's \$1,166 share of cost amount for April 2014 and ongoing as follows:

\$1,366.00	wife's unearned income
- \$20.00	standard unearned income disregard
= \$1,346.00	countable unearned income
- \$180.00	<u>medically needy income level</u>
\$1,166.00	share of cost

7. Respondent asserted petitioner's wife is eligible for Share of Cost Medicaid and is not eligible for Full SSI-Related Medicaid benefits as she is over the income standard for that Medicaid program.

8. Petitioner asserted his wife is ill and requires physician visits that cost between \$700 to \$800 per month; and requires a procedure every other month that costs approximately \$2,000 per month. Furthermore, petitioner's wife requires daily medication that costs approximately \$12,000 per month; however, petitioner is not currently paying for his wife's medication as a private foundation is paying for it.

9. Petitioner also fears that without full Medicaid benefits for his wife he will go into debt because his most of his wife's monthly medical expenses will be under the share of

cost amount and not paid by Medicaid. This is the reason he requested the hearing and seeks full Medicaid benefits for his wife.

10. Respondent explained the bill tracking procedures to petitioner and how he is able to have his wife's medical bills paid via the bill tracking procedures.

### **CONCLUSIONS OF LAW**

11. 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.

12. This proceeding is a de novo proceeding pursuant to Florida Administrative Code § 65-2.056.

13. In accordance with Fla. Admin. Code R. 65-2.060 (1), the burden of proof was for the Medicaid appeal was assigned to the petitioner.

14. The Fla. Admin. Code R. 65A-1.713(1)(a) SSI-Related Medicaid Income Eligibility Criteria, in part states:

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:

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...

15. Federal Regulations at 20 C.F.R. § 416.1124(c)(12) sets forth income that is not counted in this SSI-Related Medicaid program and states: "The first \$20 of any unearned income in a month other than. . .income based on need."

16. The ACCESS Florida Program Policy Manual Appendix A-9 (Eligibility Standard

for SSI-Related Programs) indicates that the (88% of FPL) income limit for one person for MEDS-AD as \$856.00.

17. Petitioner's countable income is \$1,346.00 (\$1,366 - \$20 disregard). Petitioner's wife is over income limit for one person for the SSI-Related Medicaid Program and the respondent was correct to enroll her in the Medically Needy Program.

18. In careful review of the cited authorities and evidence, the undersigned concludes the respondent correctly enrolled petitioner's wife in the Medically Needy Program as she is not eligible for full SSI-Related Medicaid benefits.

19. Petitioner is encouraged to seek assistance with his wife's medical needs through the Hillsborough County Social Services Program. Furthermore, he is reminded to forward all of his wife's medical bills to the respondent so that the respondent can determine if she meets her share of cost amount.

### **DECISION**

Based upon the foregoing Findings of Fact and Conclusions of Law, the petitioner's Medicaid appeal for his wife is DENIED and the food assistance appeal is DISMISSED pursuant to petitioner's verbal withdrawal on the record.

### **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.

FINAL ORDER (Cont.)  
14F-04414 & 14F-04415  
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DONE and ORDERED this 2<sup>th</sup> day of June, 2014,

in Tallahassee, Florida.

  
Mary Jane Stafford

Hearing Officer  
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Copies Furnished To:  Petitioner  
Ben F. Shirley, Jr., Suncoast Region