

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

FILED

APR 29 2015

OFFICE OF APPEAL HEARINGS
DEPT OF CHILDREN & FAMILIES

 APPEAL NO. 15F-00775

PETITIONER,

Vs.

CASE NO. 

FLORIDA DEPARTMENT OF
CHILDREN AND FAMILIES
CIRCUIT: 07 Flagler
UNIT: 88373

RESPONDENT.
_____ /

FINAL ORDER

Pursuant to notice, the undersigned convened an administrative hearing in the above-referenced matter on March 12, 2015 at 1:35 p.m.

APPEARANCES

For the Petitioner: The petitioner was present and represented himself.

For the Respondent: Matthew Lynn, Economic Self-Sufficiency Specialist II for the Department of Children and Families (DCF).

STATEMENT OF ISSUE

The petitioner is disputing the estimated monthly share of cost in the amount of \$1116 in the Medically Needy (MN) Program.

PRELIMINARY STATEMENT

The record was held open until 5:00 p.m. on March 20, 2015 to allow the respondent to submit additional evidence and to allow for the petitioner to respond to

the additional evidence. Evidence was received but was not included as part of the respondent's exhibit. No response was received from the petitioner.

FINDINGS OF FACT

1. Prior to the action under appeal, the petitioner (age 49) was receiving Supplemental Security Income (SSI), which was terminated. The petitioner began receiving Social Security disability income. The Department completed the ex parte process after it was determined that the petitioner was no longer eligible for Medicaid.

2. The Department included in its calculations the petitioner's Social Security income in the amount of \$1316. The unearned income deduction in the amount of \$20 was subtracted from the gross income to result in \$1296 countable income. The Medically Needy Income Limit (MNIL) in the amount of \$180 was subtracted from the countable income to result in a share of cost in the amount of \$1116.

3. The petitioner does not dispute the income included in the Department's calculations. The petitioner believes the monthly share of cost should be lower because he is only receiving Social Security income, which he believes is approximately the same amount as his estimated monthly share of cost. He was eligible for Medicaid in the past but was not able to use it before he was enrolled in the MN program. The petitioner understands he may not be eligible for certain benefits but would like clarification of the benefits for which he is eligible.

4. The Department requested verification of recurring medical expenses from the petitioner but was not able to use any of the bills he provided as recurring medical expenses.

5. The petitioner argues that he goes to the doctor every month and does not understand how the bills he provided were not recurring. He also provided hospital bills that were not paid through the Medicaid program. The petitioner does not receive Medicare.

6. The Department explained that the medical bills (prescriptions) the petitioner provided were used to meet his share of cost but not to reduce the monthly share of cost. The Department gave examples of recurring medical expenses to reduce share of cost include as global prenatal bills, cost of care at a long-term care facility, or an unpaid and uncovered medical expenses. The Department further explained that the petitioner's medical bills will be paid if his medical bills meet the monthly share of cost. His medical bills incurred while he was covered under Medicaid when receiving SSI, should be paid by the Medicaid program.

7. The Department explained that the petitioner was automatically given full-coverage Medicaid when he was receiving SSI. Once he was no longer eligible for SSI, his full-coverage Medicaid ended and he was ex-parted into the Medically Needy program, as his income was too high to be eligible for Medicaid.

CONCLUSIONS OF LAW

8. 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.

9. This proceeding is a de novo proceeding pursuant to Fla. Admin. Code

§ 65-2.056.

10. In accordance with Fla. Admin. Code § 65-2.060 (1), the burden of proof was assigned to the petitioner.

11. The Department's Program Policy Manual, 165-22, section 0840.0600 EX

PARTE DETERMINATIONS (MSSI) states:

An ex parte determination assesses whether a Medicaid AG member that is no longer eligible under one coverage group is eligible under a different coverage group. Continue Medicaid until the ex parte process has been completed.

Perform ex partes when:

1. An increase in income or assets causes ineligibility.
2. An adult or child who has been receiving Medicaid coverage claims disability. Request a disability decision from DDD.
3. Cancellation of an individual's SSI Medicaid.

12. The Department's Program Policy Manual, 165-22, section 0840.0601 SSI

Ex Parte (MSSI) states:

Upon termination of an individual's SSI cash benefits, AHCA mails the Medicaid redetermination letter informing the individual that the Department will see if they continue to qualify for Medicaid. There is no requirement for the individual to contact the Department to initiate the ex parte determination. If necessary, the Department will contact the individual for additional information and extend eligibility until the review is completed. Complete the review within 30 days, unless an extension is needed, and send the individual a notice of case action advising of their eligibility when the determination is complete.

An ex parte determination does not require a new application. There is no requirement for the individual to contact the Department to initiate the ex parte determination. When the determination is complete, send the individual a notice of case action advising of their eligibility. If no one is eligible or is eligible only for Medically Needy with a SOC, notify the individual, ensuring 10 days advance notice.

13. Fla. Admin. Code 65A-1.701, Definitions, states in part:

(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 or if receiving Medicare are also eligible for Medicaid covered institutional care services, hospice services or home and community based services.

(30) 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.

14. The above authority explains that the MEDS-AD Medicaid coverage (full Medicaid) is for individuals whose income is below 88 percent of the federal poverty level and are not receiving Medicare. The evidence shows that the petitioner is not receiving Medicare, but his income is above 88 percent of the federal poverty level. Therefore, the undersigned concludes that petitioner does not qualify for full coverage Medicaid. The Department next computed petitioner's share of cost in the Medically Needy Program.

15. Fla. Admin. Code section 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."

16. Fla. Admin. Code section 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. The program does not cover nursing facility care, intermediate care for the developmentally disabled services, or other long-term care services.

17. Federal Regulations at 20 C.F.R. §416.1124 (c)(12) sets forth the income deduction of \$20 for all adult-related (or SSI-related) Medicaid coverage groups.

18. Fla. Admin. Code 65A-1.713, "SSI-Related Medicaid Income Eligibility Criteria" states in part, "(2) (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."

19. The Medically Needy income levels are set forth in the Fla. Admin. Code at 65A-1.716 :

(1) The monthly federal poverty level figures based on the size of the filing unit...

(2) Medicaid income and payment eligibility standards and Medically Needy income levels are by family size as follows...

Size...1 Level \$180...

20. The petitioner no longer qualified for full Medicaid as a result of the termination of his SSI benefits. The Department completed the ex-parte process to explore the petitioner's eligibility for Medicaid coverage under a different program. The Department enrolled him into the MN program as his income exceeded the income level for MEDS-AD. The Department counted his gross income of \$1296 to determine the estimated SOC. The MNIL in the amount of \$180 for a family size of one and the \$20 general exclusion resulted in the remaining SOC as \$1116.

21. Based on the findings and the above controlling authorities, the undersigned concludes the Department's action to enroll the petitioner in the Medically Needy program with an estimated share of cost in the amount of \$1116 was correct.

DECISION

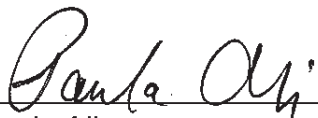
Based upon the foregoing Findings of Fact and Conclusions of Law, appeal is denied.

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 20th day of April, 2015,

in Tallahassee, Florida.



Paula Ali
Hearing Officer
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FINAL ORDER (Cont.)

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Copies Furnished To: [REDACTED] Petitioner
Office of Economic Self Sufficiency