

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

FILED

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OFFICE OF APPEAL HEARINGS
DEPT OF CHILDREN & FAMILIES

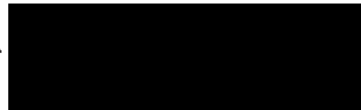


APPEAL NO. 15F-01713

PETITIONER,

Vs.

CASE NO.



FLORIDA DEPARTMENT OF
CHILDREN AND FAMILIES
CIRCUIT: 04 Duval
UNIT: 88328

RESPONDENT.

FINAL ORDER

Pursuant to notice, the undersigned convened a telephonic administrative hearing in the above-referenced matter on March 18, 2015 at 11:35 a.m.

APPEARANCES

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

For the Respondent: Diane Washington, Economic Self-Sufficiency Specialist II

STATEMENT OF ISSUE

At issue is the Department's action to increase the petitioner's monthly share of cost (SOC) from \$150 to \$396 effective March 1, 2015.

PRELIMINARY STATEMENT

The record was held open until 5:00 p.m. on March 23, 2015 to allow the respondent and the petitioner to provide additional evidence. Evidence was received and entered as the Respondent Exhibit 3 and the Petitioner Exhibit 1.

FINDINGS OF FACT

1. Prior to the action under appeal, the petitioner (age 51) was enrolled in the Medically Needy (MN) Program with a monthly share of cost in the amount of \$150. On February 3, 2015, the petitioner completed an application to recertify for Medicaid for himself and his two children, ages 18 and 16. Each child receives Social Security in the amount of \$441. There is no other income.

2. The Department included total Social Security income in the amount of \$882. The \$882 income exceeded the income limit of \$303 for three persons. The income was reduced by the \$486 Medically Needy Income Level (MNIL) for three persons to result in a monthly share of cost in the amount of \$396. Therefore, the Department continued his enrollment in the Medically Needy Program with an increased monthly share of cost. The petitioner's children continue to be eligible for full-coverage Medicaid.

3. The petitioner does not dispute the amount of his monthly gross income. The petitioner's position is that he has always reported his income. The petitioner argues that the monthly share of cost should decrease from \$150 rather than increase because his income decreased when his youngest child turned 16.

4. The petitioner contends that he does not intend to file an income tax return. Respondent's Exhibit 2 includes the Department's ACCESS Management System's Work Item Details from petitioner's recertification application #1002950449 showing a "Rcvd Date" of "02/03/2015". Page 2 of this document itemizes the "Tax Relationships" and reflects "No" for "Filing Taxes."

5. The Department explained that the petitioner's only income included in past budgets for the MN program was in the amount of \$636 in Social Security income, causing the monthly SOC to be \$150, after the \$486 MNIL was deducted.

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 § 409.285, Fla. Stat.

7. This proceeding is a de novo proceeding pursuant to Fla. Admin. Code § 65-2.056.

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

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 Fla. Stat § 409.285. This order is the final administrative decision of the Department of Children and Families under § 409.285, Fla. Stat.

10. The Family-Related Medicaid income criteria are set forth in Federal Regulations at 42 C.F.R 435.603 and states:

- (a) Basis, scope, and implementation. (1) This section implements section 1902(e)(14) of the Act.
- (2) Effective January 1, 2014, the agency must apply the financial methodologies set forth in this section in determining the financial eligibility of all individuals for Medicaid, except for individuals identified in paragraph (j) of this section and as provided in paragraph (a)(3) of this section.
- (d) Household income—(1) General rule. Except as provided in paragraphs (d)(2) through (d)(4) of this section, household income is the sum of the MAGI-based income, as defined in paragraph (e) of this section, of every individual included in the individual's household.

11. The Department's Program Policy Manual, 165-22, section 2230.0400

Standard Filing Unit (MFAM) states:

For tax filers, the Standard Filing Unit (SFU) is the tax filing group for the tax year in which eligibility is being determined. Eligibility is determined by each individual using the tax filing group's income. Individuals cannot receive Medicaid benefits under more than one coverage group, but can have their income included in more than one SFU.

For individuals who neither file a federal tax return nor are claimed as a tax dependent (non-filers), the Standard Filing Unit consists of the individual and, if living with the individual, their spouse, their natural, adopted, and step children under age 19, or 19 and 20 if in school full-time..

12. In this case, the Department determined the petitioner's eligibility for Medicaid with a standard filing unit that consisted of three persons. The findings show that the petitioner does not intend to file a federal tax return. According to the above controlling federal Medicaid regulations, when the individual does not expect to file taxes and is not claimed as a tax dependent, the household consists of the individual and his children under age 19. Therefore, the undersigned concludes that the petitioner's Medicaid standard filing unit consists of the petitioner and his two children.

In this case, it is the adult seeking Medicaid; therefore, the standard filing unit for purposes of determining petitioner's Medicaid eligibility is three. The undersigned concludes the Department correctly determined the petitioner's standard filing unit for budgeting purposes as three for the Family-Related Medicaid coverage group.

13. The Department's Program Policy Manual, 165-22, Appendix A-7, indicates the Family-Related Medicaid income limit for Parents is \$303 for a family size of three. The Medically Needy Income Limit (MNIL) is \$486 for a family size of three.

14. The Department's Policy Manual, 165-22, section 2630.0108 Budget Computation (MFAM) states:

Financial eligibility for Family-Related Medicaid is determined using the household's Modified Adjusted Gross income (MAGI). The MAGI is the household's adjusted gross income as calculated by the Internal Revenue Service plus any foreign earned income and interest income exempt from tax.

In computing the assistance group's eligibility, the general formula is:

Step 1 - (Gross Unearned + Gross Earned) = (Total Gross Income).

Step 2 - Deduct any allowable income tax deductions (lines 23-35 from 1040). Deduct any allowable deductions for financial aid or self-employment to obtain the Modified Adjusted Gross Income.

Step 3 - Deduct the appropriate standard disregard. This will give the countable net income.

Step 4 - Compare the total countable net income to the coverage group's income standard.

If less than or equal to the income standard* for the program category, STOP, the individual is eligible. If greater than the income standard for the program category, continue to Step 5.

Step 5 - Apply a MAGI deduction (5% of the FPL based on SFU size).

If the 5% disregard would make the individual eligible, include the disregard. Otherwise the individual is ineligible for Medicaid.

Individuals determined ineligible for Medicaid will be enrolled in Medically Needy and referred, as appropriate, to Florida KidCare and/or the Federally Facilitated Marketplace (FFM).

15. In this case, the Department considered the total Social Security income in the amount of \$882 to determine the petitioner's eligibility for Medicaid. The Department compared the household income to the Family-Related Income Limit in the amount of \$303 for a family size of three. The total household income exceeds the limit for the parent to receive full coverage Medicaid in the Family-Related Programs. According to the above controlling regulations, the undersigned concludes that the Department's action to continue the petitioner's enrollment in the Medically Needy program was correct.

16. According to the above policy, individuals determined ineligible for Medicaid will be enrolled in Medically Needy and referred, as appropriate, to the Federally Facilitated Marketplace (FFM). Once the income exceeded the limit for full Medicaid, the Department correctly proceeded to enroll petitioner in the Medically Needy Program. The Department subtracted the MNIL in the amount of \$486 for a family of three from the income of \$882 which resulted in a monthly share of cost of \$396 for the petitioner. Therefore, the undersigned concludes that the Department was correct in its action to increase the petitioner's monthly SOC from \$150 to \$396 according to its budgeting procedures.

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 11th day of May, 2015,

in Tallahassee, Florida.



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