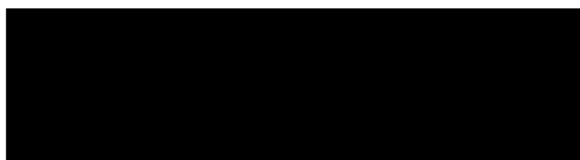


FILED

MAY 26 2015

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

OFFICE OF APPEAL HEARINGS
DEPT OF CHILDREN & FAMILIES



APPEAL NO. 15F-02257

PETITIONER,

Vs.

CASE NO. 

FLORIDA DEPT OF CHILDREN AND FAMILIES
CIRCUIT: 11 Dade
UNIT: 66255

RESPONDENT.

_____ /

FINAL ORDER

Pursuant to notice, the undersigned convened an administrative hearing in the above-referenced matter on April 8th, 2015 at 1:20 p.m. in Miami, Florida.

APPEARANCES

For the Petitioner:  pro se.

For the Respondent: Olivia Hernandez, Economic Self-Sufficiency

Specialist I for the Economic Self-Sufficiency (ESS) program.

STATEMENT OF ISSUE

The petitioner is appealing the respondent's action to enroll her in the Medically Needy program with an assigned share of cost (SOC) as opposed to full coverage Medicaid with no SOC beginning November 2014. The petitioner carries the burden of proof on this issue.

The petitioner is also appealing the respondent's action to increase her SOC effective January 2015. The respondent carries the burden of proof on this issue.

PRELIMINARY STATEMENT

Appearing as a witness for the respondent was Ada Torroella, Operations Management Consultant for ESS.

The hearing was originally scheduled to be conducted telephonically on April 6th, 2015. The petitioner then requested that the hearing be scheduled as an in-person forum. The hearing was rescheduled and convened as described above.

Petitioner's Exhibits 1-4 were moved into evidence. Respondent's Exhibits 1-5 were moved into evidence.

No Notice of Case Action describing either of the two actions under appeal was submitted into evidence. The petitioner filed an appeal to challenge the respondent's action on March 6th, 2015. Absent evidence to the contrary, the appeal is considered to have been filed timely.

FINDINGS OF FACT

1. The petitioner has been enrolled in the Medically Needy program since she applied in November 2014.

2. The petitioner (58 years of age) is a single-person household. In November 2014, the petitioner's sole source of income was her Social Security Disability (SSD) in the monthly amount of \$1,176. This amount increased to \$1,196 in December 2014.

These facts are undisputed.

3. In November 2014, the respondent determined that the petitioner's income exceeded the limit for a household of one for full-coverage Medicaid, and instead, determined the petitioner to be eligible for an SOC of \$976. As the petitioner's SSD increased to \$1,196 effective December 2014, the SOC increased to \$996.

4. The petitioner pays a monthly mortgage of \$728.11. She is behind on her electricity bill and currently owes over \$500; she also pays \$447.94 every three months for water. The petitioner contends that due to these expenses alone, she cannot afford not to be without full-coverage Medicaid.

PRINCIPLES OF LAW AND ANALYSIS

5. The Department of Children and Families Office of Appeal Hearings has jurisdiction over the subject matter of this proceeding and the parties, pursuant to § 120.80, Fla. Stat.. This order is the final administrative decision of the Department of Children and Families under § 409.285, Fla. Stat..

6. This hearing was held as a de novo proceeding pursuant to Fla. Admin. Code R. 65-2.056.

7. 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 incur each month before becoming eligible to receive Medicaid benefits for medical expenses incurred during the remainder of the month."

8. 65A-1.702 Special Provisions states in part:

“(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.”

9. 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.

10. 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.

....

(3) When Income Is Considered Available for Budgeting. The department counts income when it is received, when it is credited to the individual’s account, or when it is set aside for their use, whichever is earlier.

....

(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 costs. If countable income exceeds the Medically Needy income level the department shall deduct allowable medical expenses in chronological order, by day of service. Countable income is determined in accordance with subsection 65A-1.713(2), F.A.C. To be deducted the expenses must be unpaid, or if paid, must have been paid in the month for which eligibility is being determined or incurred and paid during the three previous calendar months to the month for which eligibility is being determined but no earlier than the three retroactive application months. The paid expense may not have been previously deducted from countable income during a period of eligibility. Medical expenses reimbursed by a state or local government not funded in full by federal funds, excluding Medicaid program payments, are allowable

deductions. Any other expenses reimbursable by a third party are not allowable deductions. Examples of recognized medical expenses include:

1. Allowable health insurance costs such as medical premiums, other health insurance premiums, deductibles and co-insurance charges; and,
2. Allowable medical services such as the cost of public transportation to obtain allowable medical services; medical services provided or prescribed by a recognized member of the medical community; and personal care services in the home prescribed by a recognized member of the medical community.

The hearing officer will first address petitioner's eligibility for November and December 2014.

11. As established in the Findings of Fact, the petitioner's sole source of income to be counted was her SSD in the monthly amount of \$1,176. According to the Department's Integrated Public Assistance Policy Manual, Appendix A-9, the income limit for a disabled individual effective July 2014 was \$721. As the petitioner's income exceeds this amount, the hearing officer concludes that the petitioner was not eligible for full-coverage Medicaid.

12. The hearing officer will consider the petitioner's SSD income of \$1,176 less the Unearned Income Disregard of \$20, for a net income of \$1,156. From this amount, the Medically Needy Income Level (MNIL) for one person of \$180 is subtracted, yielding a Share of Cost of \$976.

The hearing officer will now address the respondent's eligibility effective January 2015.

13. According to the Department's Integrated Public Assistance Policy Manual Appendix A-9, the income limit for a disabled individual effective January 2015

increased to \$733. As the petitioner's SSD income of \$1,196 exceeds this amount, the hearing officer concludes that the petitioner was not eligible for full-coverage Medicaid.

14. The hearing officer will consider the petitioner's SSD income of \$1,196 less the Unearned Income Disregard of \$20, for a net income of \$1,176. From this amount, the Medically Needy Income Level (MNIL) for one person of \$180 is subtracted, yielding a Share of Cost of \$996.

15. As explained in the Findings of Fact, the petitioner asserts she incurs mortgage, electricity, and other utility expenses, none of which the respondent took into account in determining her eligibility for Medicaid. The hearing officer reviewed the regulations and finds nothing to support allowing these expenses when determining eligibility for Medicaid. Therefore, the hearing officer concludes that the denial of regular Medicaid benefits and enrollment in the Medically Needy program were correct.

DECISION

Based on the foregoing Findings of Fact and Principles of Law, this appeal is DENIED. The respondent's action is affirmed.

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 indigence 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.)

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DONE and ORDERED this 20 day of May, 2015,

in Tallahassee, Florida.

Justin Enfinger (e)

Justin Enfinger

Hearing Officer

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