

assistance (TCA) was properly denied. Petitioner bears the burden of proving, by a preponderance of the evidence, that Respondent's actions are incorrect.

PRELIMINARY STATEMENT

Petitioner filed multiple requests for hearing in June of 2015. During a pre-hearing conference in advance of hearing on August 4, 2015, Petitioner disconnected from the conference line and did not contact the Office of Appeal Hearings to explain why she terminated the call. Via Preliminary Order of Dismissal, Petitioner was given opportunity to object to dismissal of her case. As Petitioner responded to this Order, her hearing was rescheduled for October 7, 2015. The Department was not ready to proceed with all issues (and was not sure why Petitioner requested hearing) on October 7, 2015; however, the parties agreed to begin proffering testimony and reviewing evidence. When the October 7, 2015 hearing ran overtime, the Department noted it would review Petitioner's case for any Department-based errors, and both parties agreed to reconvene and finish testimony on October 29, 2015.

When Petitioner first requested hearing, she wished to contest Respondent's determination of her food assistance program (FAP) benefits, in addition to benefits in the above-referenced programs. At hearing October 29, 2015, Respondent explained that a sanction had improperly been applied to Petitioner's case, and had since been removed. The Department had recalculated FAP benefits, as well Petitioner's Medicaid benefits, based upon information provided at the prior hearing. Petitioner confirmed that the FAP matter had been resolved to her satisfaction, but that she still wished to contest the newly calculated Share of Cost (SoC), and the denial of TCA. The undersigned

accepted this as a withdrawal of the FAP case, and issues this Final Order to dispose of all appeals.

Petitioner appeared as her own representative and provided testimony to support her case. Ernestine Bethune, ESS II with DCF, represented the Respondent. Hearing Officer Greg Watson, with the Office of Appeal Hearings, observed the proceedings.

Respondent's Composite Exhibit 1, as discussed on the record on October 7, 2015, is hereby moved into evidence. Respondent's Composite Exhibit 2, as accepted into evidence on October 29, 2015, is also moved. It should be noted that Respondent's Composite Exhibit 1 contains documentation initially submitted as part of Petitioner's mother's case (a separate appeal that was closed out as abandoned), and has largely been corrected via the documentation contained within Respondent's Composite Exhibit 2.

FINDINGS OF FACT

1. Petitioner is a 39-year-old, non-disabled female, born [REDACTED]. She moved from Puerto Rico to Florida around May of 2015 to care for her ailing mother. She now resides in the family home with her mother [REDACTED] her husband [REDACTED] one mutual child [REDACTED] and one non-mutual child [REDACTED].

2. On or about May 19, 2015, Petitioner submitted to the Department an electronic application for assistance, requesting benefits through FAP, TCA for G.B., and Medicaid. Within this application, Petitioner noted that her household's income included monthly social security payments for her mother, husband, and daughter, [REDACTED]. No other income was noted.

3. On or about May 28, 2015, the Department conducted a telephone interview

with Petitioner, based upon her application. The Department's Running Record Comments reflect that very little information was sought regarding the household's tax filing status and/or determination of mandatory filing unit/assistance group members.

4. Following review of Petitioner's application, the Department generated a Notice of Case Action (NOCA) with regard to FAP and Medicaid on June 3, 2015, and a NOCA denying TCA on June 15, 2015. The June 3, 2015 NOCA reflected a monthly SoC for Petitioner and V.M. of \$328.00 per month.

5. Petitioner requested a hearing to challenge the determination of SoC for herself, only (not for V.M.), and the denial of TCA. She noted at hearing on October 29, 2015 that her FAP benefits issue was resolved.

6. At hearing on October 7, 2015, Petitioner clarified her families' tax filing status: Petitioner plans to file taxes, claiming her husband and both children as dependents. Petitioner's mother files her own, separate, taxes.

7. Upon review of Petitioner's case, the Department determined that for Medicaid/SoC purposes, Petitioner's assistance group was a household of four (Petitioner, [REDACTED] and [REDACTED]), with unearned income from [REDACTED] of \$815.70 per month. For purposes of TCA, Petitioner's assistance group is also a household of four, with unearned income of \$815.70 (Social Security for [REDACTED]) plus \$76.20 (Social Security for [REDACTED])

8. The November 2015 Medicaid budget that Respondent submitted at hearing on October 29, 2015 shows that the Department used [REDACTED] Social Security as the household's unearned monthly income of \$815.70. As this amount is higher than the maximum monthly income for an adult within a four-person household (\$364.00),

Petitioner is not eligible for “full Medicaid” through the family Medicaid program. However, since the income is below the total maximum income for a four-person household (\$2,021.00), the Department continued to process Petitioner's case to determine her SoC. To this end, the Department subtracted a Medically Needy Income Level (MNIL) of \$585.00 from Petitioner's countable income of \$815.70, to arrive at a SoC of \$230.00 per month.

9. It is the \$230.00 SoC – not the originally noticed SoC of \$328.00 – which the Department stands by as the proper benefit calculation.

10. The June/July 2015 TCA budget prepared by Respondent shows that the Department calculated Petitioner's monthly income as \$815.70 (V.M.) + \$76.20 (D.M) = \$891.90. The Department determined that Petitioner was ineligible for TCA benefits, as the \$891.90 figure exceeds the payment standard of \$364.00 for a four-person household.

11. Petitioner contests the SoC, noting that she is unable to afford medical care because practitioners will not schedule appointments or send her for testing (such as ultrasounds) since she does not have full Medicaid. Petitioner notes that in July of 2005, [REDACTED] and has had medical complications ever since. She is concerned that whenever she needs medical assistance, she will have to go to the emergency room. She believes this is an inefficient use of the State's resources, when a lower SoC might allow her greater access to less expensive healthcare.

12. Petitioner also contests the denial of TCA. She states that in addition to

caring for her children, she is now caring for an ailing, disabled mother. As such, she is not able to work outside the home, and cannot afford to take care of her family, solely on the unearned income received by her husband and daughter.

CONCLUSIONS OF LAW

13. 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.

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

15. In accordance with Fla. Admin. Code R. 65-2.060 (1), the burden of proof is assigned to the Petitioner, who submitted an application for FAP, Medicaid, and TCA benefits.

16. Pursuant to Petitioner's statement on the record, her appeal regarding FAP benefits is dismissed.

Medicaid

17. Eligibility Standards for family Medicaid are found in Appendix A-7 of the Department's Policy Manual (July 2014), CFOP 165-22, which reflects a maximum, four-person monthly income of \$2,021.00. For a single, non-disabled adult under the age of 65 within the four-person household to qualify for full Medicaid, the income standard is \$364.00 per month (see third column of Appendix A-7 and Fla. Admin. Code R. 65A-1.716(2)).

18. As Petitioner's household income/Modified Adjusted Gross Income (MAGI) of \$815.70 exceeds this standard, she is not eligible for full Medicaid. Even when a standard deduction (\$221) or MAGI disregard (\$101.00) are deducted from her MAGI, her income is greater than the income standard of \$364.00, and she fails the test for full Medicaid (See Appendix A-7). However, per Fla. Admin. Code 65A-1.707(1)(a), "For Medically Needy coverage groups, the amount by which the gross income exceeds the applicable payment standard income level is a share of cost as defined in Rule 65A-1.701, F.A.C."

19. Fla. Admin. Code R. 65A-1.701(30) defines share of cost 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. Per Fla. Admin. Code 65A-1.702:

(2)(b) Individuals applying for the Medically Needy program become eligible on the date their incurred allowable medical expenses, excluding payments by all third party sources except state or local governments not funded in full be federal funds, equal their share of cost, provided that all other conditions of eligibility are met. Any bill used in full to meet the individual's share of cost (SOC) shall not be paid by Medicaid....

(13) Determining Share of cost. The SOC is determined by deducting the Medically Needy Income Level from an individual's or family's income.

21. In the instant case, the Department utilized Petitioner's income of \$815.70, then subtracted the \$585.00 Medically Needy Income Limit (MNIL), as determined by the Appendix A-7 of the Policy Manual, to obtain a SoC of $(\$815.70 - \$585.00) \$230.00$.

22. Potential deductions for Medically Needy budgeting purposes include those which result from expenses incurred to obtain income, earned income (work expenses,

federal/state income taxes, and related deductions), Part B Medicare premiums (paid by the family), and health or life insurance premiums. (See Policy Manual sections 2440.0300 – 2440.0371). There is no evidence to indicate that Petitioner pays any of these expenses.

23. If, at any point, Petitioner discovers unpaid medical expenses, begins to pay a Medicare premium, or incurs additional expenses not previously considered by the Department, she is encouraged to report these for review.

Cash Assistance

24. Section 414.095 Fla. Stat, Determining eligibility for temporary cash assistance, states, in part:

- (10) DETERMINATION OF LEVEL OF TEMPORARY CASH ASSISTANCE.—Temporary cash assistance shall be based on a standard determined by the Legislature, subject to availability of funds. There shall be three assistance levels for a family that contains a specified number of eligible members, based on the following criteria:
- (a) A family that does not have a shelter obligation.
 - (b) A family that has a shelter obligation greater than zero but less than or equal to \$50.
 - (c) A family that has a shelter obligation greater than \$50 or that is homeless.

The following chart depicts the levels of temporary cash assistance for implementation purposes:

THREE-TIER SHELTER PAYMENT STANDARD

Family Size	Zero Shelter Obligation	Greater than Zero Less than or Equal to \$50	Greater than \$50 Shelter Obligation
4	\$254	\$309	\$364

(11) DISREGARDS.—

(a) As an incentive to employment, the first \$200 plus one-half of the remainder of earned income shall be disregarded. In order to be eligible for earned income to be disregarded, the individual must be:

1. A current participant in the program; or
2. Eligible for participation in the program without the earnings disregard.

(b) A child's earned income shall be disregarded if the child is a family member, attends high school or the equivalent, and is 19 years of age or younger.

(12) CALCULATION OF LEVELS OF TEMPORARY CASH ASSISTANCE.—

(a) Temporary cash assistance shall be calculated based on average monthly gross family income, earned and unearned, less any applicable disregards. The resulting monthly net income amount shall be subtracted from the applicable payment standard to determine the monthly amount of temporary cash assistance.

(emphasis added)

25. The Department's Florida Program Policy Manual, 165-22 at section

2420.0315 Eligibility for \$200 and 1/2 Disregard (TCA) states:

In order for a member of a Temporary Cash Assistance (TCA) standard filing unit (SFU) to receive the \$200 and 1/2 disregard, the individual must:

1. have been eligible for and received TCA in one of the past four months; or
2. have gross countable income (including earned and unearned income), less the \$90 standard earned income disregard, which is less than the applicable payment standard.

26. Petitioner's filing unit/assistance group for TCA purposes was determined, in

part, based on Policy Manual Section 2220.0404.06, which notes:

Minor Siblings (TCA)

All minor siblings (including half-brothers and half-sisters) living with the child for whom assistance is requested or if away from home, meeting the conditions of temporary absence, must have their needs included, provided the sibling meets all Temporary Cash Assistance eligibility criteria.

Minor siblings are those brothers and sisters under the age of 18 or under age 19 and a full-time student in secondary school or at the equivalent level of vocational or technical training who have never been married or whose marriage was annulled. The needs of these children must be included through the month of their 18th birthday or 19th birthday if a full-time student, unless born on the first

day of the month. If born on the first day of the month, their needs must be removed effective the birth month.

Two-parent families containing at least one mutual child must be considered as one standard filing unit (SFU) due to the sibling relationships of mutual and nonmutual children. If the family is ineligible for Temporary Cash Assistance benefits as one SFU, Temporary Cash Assistance is not available to the nonmutual children or their parents.
(emphasis added)

27. With an assistance group of two adults and two children, the Department looked to the unearned household income (Social Security) of \$815.70 received by [REDACTED] and \$76.20 received by G.B. (for whom TCA is sought). This amount totals to \$891.90. No income disregards were applied because there is no earned income in the filing unit, and the total income exceeds the highest possible income standard (\$364.00) for a family of four.

28. If, at any point, Petitioner's family income changes, she is encouraged to re-apply for TCA.

29. Petitioner's opinion regarding limitations to her access of healthcare and the inefficiency of a SoC is noted; however, the undersigned hearing officer has no authority to rule on public policy argument. Petitioner is encouraged to contact the Department for assistance with bill tracking, so as to better manage her healthcare needs and increase her chances for meeting the SoC each month. As she is notably concerned about her ailing mother, she is further encouraged to contact the Department to discuss whether the mother might qualify for additional assistance or any waiver programs, so as to meet her medical and caregiving needs. Should Petitioner apply for additional

programs, and be denied same, she will reserve the right to appeal those, specific denials.

30. Based upon the totality of the evidence, the Department has shown that its revised calculations of Petitioner's Medicaid SoC benefits, and its decision to deny TCA were proper.

DECISION

Based upon the foregoing Findings of Fact and Conclusions of Law, Petitioner's appeal regarding FAP is DISMISSED as moot. Her appeals regarding Medicaid and TCA are DENIED. Respondent is hereby directed to apply its revised, correctly calculated SoC retroactive to Petitioner's date of application.

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 09 day of December, 2015, in

Tallahassee, Florida.



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FINAL ORDER (Cont.)
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Copies Furnished To: [REDACTED] Petitioner
Office of Economic Self Sufficiency