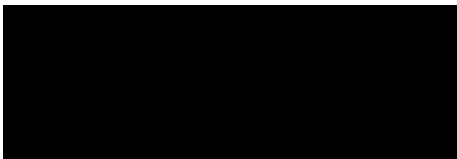


Jan 25, 2016

Office of Appeal Hearings
Dept. of Children and Families

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



APPEAL NO. 15F-08757

PETITIONER,

Vs.

AGENCY FOR HEALTH CARE ADMINISTRATION
CIRCUIT: 15 Palm Beach
UNIT: AHCA

RESPONDENT.

_____ /

FINAL ORDER

Pursuant to notice, the undersigned convened a telephonic administrative hearing in the above-referenced matter on November 24, 2015 at 1:05 p.m.

APPEARANCES

For the Petitioner:



Pro Se

For the Respondent:

Lisa Sanchez
Senior Human Services Program Specialist

ISSUE

Whether a dental bill for \$5400.00 should be paid by the Florida Medicaid Program. The burden of proof was assigned to the petitioner.

PRELIMINARY STATEMENT

Petitioner entered no exhibits into evidence.

Ms. Sanchez appears as both the representative and witness for the respondent.

Respondent's exhibit "1" was entered into evidence.

Due to jurisdictional concerns, the record was held open through December 3, 2015 for petitioner to provide a notice which denies; terminates; reduces; or suspends a Medicaid service. The record was also held open for petitioner to provide dental bills. Dental bills were timely provided and entered as petitioner's exhibit "1". A notice which denies; terminates; reduces; or suspends a Medicaid service was not provided.

The record was also held open through December 3, 2015 for respondent to provide a summary of any conversation with the treating provider. A response was not received.

On December 2, 2015 petitioner's Request for Extension of Time (90 days) and Appointment of Counsel was received. On December 4, 2015 the request for additional time was partially granted. Petitioner was allowed an additional 30 days to respond to jurisdictional concerns (through January 4, 2016). Petitioner's request for appointment of counsel was denied.

A response to jurisdiction concerns was not received.

FINDINGS OF FACT

Based upon the oral and documentary evidence presented at the final hearing and on the entire proceeding, the following Findings of Fact are made:

1. Petitioner's date of birth is [REDACTED] He is dually enrolled in Medicare and Medicaid.
2. The Department of Children and Families (DCF) determines Medicaid eligibility.
3. Petitioner was determined eligible for Medicaid's Medically Needy Program. He has a monthly share of cost (SOC) of \$1248.00.

4. For those in the Medically Needy Program, Medicaid eligibility is determined on a monthly basis. The individual must submit medical bills to DCF. The individual becomes Medicaid eligible on the day when allowable medical expenses equal the designated SOC. The individual is then Medicaid eligible from that date until the end of the month. The entire process starts over the following month.

5. DCF determined petitioner Medicaid eligible for the following timeframes:

- January 13, 2015 to January 31, 2015
- March 5, 2015 through March 31, 2015
- May 29, 2015 through May 31, 2015

6. No claims were submitted for the above timeframes.

7. Petitioner has a dental plan with Humana for which he pays \$25.00 per month.

8. At an unspecified date in January 2015 petitioner incurred dental expenses related to a root canal; extractions and dentures.

9. The treating dentist completed all dental procedures and sent petitioner a bill for \$5400.00. Petitioner has paid the dentist approximately \$500.00.

10. Petitioner asserts the dentist told him some of the work would not be covered by Humana. The dentist inquired if there was any other insurance. The petitioner's response was Medicaid.

11. It is not known if the treating dentist is an enrolled provider in the Medicaid Program.

12. It is not known if Humana was billed for the dental procedures. It is also not known if Humana thereafter denied or paid any portion of the claim.

13. Ms. Sanchez has attempted to contact the treating physician several times. Messages have been left but the calls have not been returned.

14. Respondent has issued no denial notices to the petitioner for any dental procedure.

CONCLUSIONS OF LAW

15. By agreement between the Agency for Health Care Administration and the Department of Children and Families, AHCA has conveyed jurisdiction to the Office of Appeal Hearings to conduct this hearing pursuant to § 120.80, Fla. Stat.

16. This is a final order pursuant to § 120.569 and § 120.57, Fla. Stat.

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

18. The standard of proof in an administrative hearing is by a preponderance of the evidence. (See Fla. Admin. Code R. 65-2060(1).) The preponderance of the evidence standard requires proof by “the greater weight of the evidence,” (Black’s Law Dictionary at 1201, 7th Ed.).

19. Regarding the Medically Needy Program, 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.

20. The Florida Medicaid Provider General Handbook (Provider Handbook) continues by providing the following clarification on page 3-31

A Medically Needy recipient is an individual who would qualify for Medicaid, except that the individual’s income or resources exceed Medicaid’s income or resource limits.

On a month-by-month basis, the individual’s medical expenses are subtracted from the individual’s income, and if the remainder falls below

Medicaid's income limits, the individual may qualify for Medicaid from the day he became eligible until the end of the month.

A Medically Needy recipient may be eligible for a full month or part of a month. The provider must check the recipient's eligibility before providing services.

A Medically Needy recipient becomes eligible on the day that the recipient incurs allowable medical expenses that equal the amount by which his income exceeds the Medicaid income standard (share of cost). The recipient must submit his medical bills to DCF, and DCF makes the eligibility determination. The recipient will be eligible through the end of the month.

21. The undersigned was not able to make a Finding of Fact that claims for the dental procedures were submitted to DCF for processing. If claims had been submitted and either not processed or processed incorrectly, an appealable issue would exist with DCF.

22. The undersigned was also not able to make a Finding of Fact that the treating dentist was an enrolled provider in the Medicaid Program. It is noted that the Provider Handbook addresses certain considerations regarding billing the recipient (see pages 1-6 through 1-7). As the Medicaid status of the treating dentist is unknown, it is not possible for this provision to be evaluated.

23. Regarding petitioner's dental coverage with Humana and his eligibility for Medicare, The Provider Handbook continues by stating, in part:

Page 1-12:

Third Party Liability (TPL) is the obligation of any entity other than Medicaid or the recipient to pay for all or part of the cost of the recipient's medical care. If the recipient has other coverage through a TPL source, the provider must bill the TPL source prior to billing Medicaid.

...

Medicaid is the payer of last resort. If a recipient has other insurance coverage through a third party source, such as Medicare ... the provider must bill the primary insurer prior to billing Medicaid.

Page 1-16:

Recipients who are 65 years or older ... can have full major medical coverage through Medicare.

...

Dually-eligible recipients (eligible for Medicaid and Medicare) may receive Medicare services from a Medicare Advantage Plan (Medicare HMO). A Medicare Advantage Plan is considered to be a TPL source.

24. The undersigned was not able to make a Finding of Fact that Humana was first billed for the dental expenses at issue. Additionally, it is not clear if petitioner is enrolled in a Medicare Advantage Plan that might cover the dental expense.

25. Analysis is next directed to jurisdictional concerns.

26. 42 C.F.R. address fair hearings for applicants and beneficiaries.

27. 42 C.F.R. §431.20 states, in part:

When a hearing is required:

(a) The State agency must grant an opportunity for a hearing to the following:

(1) Any applicant who requests it because his claim for services is denied or is not acted upon with reasonable promptness.

(2) Any beneficiary who requests it because he or she believes the agency has taken an action erroneously.

28. 42 C.F.R. §431.201 provides the following definition: "Action means a termination, suspension, or reduction of Medicaid eligibility or covered services ..."

29. Documentary evidence does not establish a Medicaid service has been denied; terminated; suspended; or reduced. As such, the undersigned lacks jurisdiction

regarding the identified issue. When jurisdiction does not exist, the matter must be dismissed.

30. Petitioner can further pursue billing with the dental provider. If the provider is enrolled in the Medicaid Program, the claims can be submitted to DCF for consideration and processing.

31. The Medically Needy Program can be confusing for both a recipient and a provider. A brochure, which was downloaded from the DCF website, is attached to this order. This information was found at:

<http://www.myflfamilies.com/service-programs/access-florida-food-medical-assistance-cash/medicaid>

DECISION

Based upon the foregoing Findings of Fact and Conclusions of Law, due to the lack of jurisdiction, petitioner's appeal is dismissed.

NOTICE OF RIGHT TO APPEAL

This decision is final and binding on the part of the agency. 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, Agency for Health Care Administration, 2727 Mahan Drive, Tallahassee, FL 32308-5403. 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 agency has no funds to assist in this review.

DONE and ORDERED this 25 day of January, 2016,

in Tallahassee, Florida.

Frank Houston

Frank Houston
Hearing Officer
Building 5, Room 255
1317 Winewood Boulevard
Tallahassee, FL 32399-0700
Office: 850-488-1429
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Email: Appeal.Hearings@myflfamilies.com

Copies Furnished To:

██████████ Petitioner
Judy Jacobs, Area 7, AHCA Field Office

Helpful Websites:

Information on

Public Assistance Benefits

If you have questions about the Medically Needy Program or other Public Assistance benefits, want to see a list of our service centers, fax numbers or apply for benefits, visit our website: www.myflorida.com/accessflorida

Medical Coverage for Children under age 19:

www.Floridakidcare.org

OR

www.healthykids.org

The following websites provide information on various programs for free or low cost prescriptions for certain medications:

www.benefitscheckup.org

www.medicare.gov

www.pparx.org

www.needymeds.com

www.rxassist.org

www.aarp.org/fl

www.togetherrxaccess.com

www.nacds.org

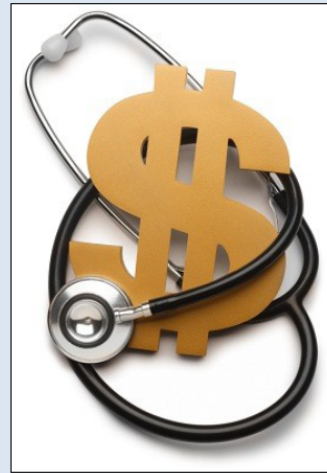
You may contact the Elder Helpline at (800) 963-5337.





CF/PI 165-70, Sep 2014

Department of Children and Families

Medically Needy Program



An Explanation of "Share of Cost"

	<h2>Department of Children and Families</h2>	<h2>Medically Needy Program</h2>
<p>What is the Medically Needy Program?</p>	<p>Some examples of medical expenses that can be used to meet the "share of cost"</p>	<p>How to submit proof of medical expenses?</p>
<p>The Department of Children and Families (DCF) determines eligibility for the Medically Needy Program. It may also be referred to as the "Share of Cost" program. The Medically Needy Program assists individuals who would qualify for Medicaid except for having income that is too high.</p>	<ul style="list-style-type: none"> • Unpaid medical bills owed that have not been used to meet the share of cost before. • Medical bills the individual paid within the last three months. • Health insurance premiums • Medical bills that will not be paid by health insurance or any other source. • Co-pays for medical bills. • Medical services prescribed by a doctor. • Transportation by ambulance, bus or taxi to get medical care. 	<p>Proof of medical expenses can be submitted by fax, mail, or in person. Be sure to include your name and case number on medical expenses.</p>
<p>What is a "share of cost"?</p>	<p>Some examples of medical expenses that cannot be used to meet the "share of cost"</p>	<p>Some examples of proof of medical expenses are:</p> <ul style="list-style-type: none"> • Medical bills an individual received. • Receipts for medical bills. • Cancelled checks for paid medical bills.
<p>Individuals enrolled in Medically Needy may have a monthly "share of cost", which is similar to an insurance deductible. The share of cost is determined by household size and gross monthly income. When there are changes to the household size and income, the share of cost amount may change.</p>	<ul style="list-style-type: none"> • Premiums for insurance policies that pay the individual money for hospitalization • Over the counter medical supplies, such as bandages, cold remedies, etc. 	<p>Visit www.myflfamilies.com/access-service-centers for a listing of service center locations and fax numbers.</p>
<p>How does the "share of cost" work?</p>	<p>Whose medical expenses can be used to meet the "share of cost"?</p>	<p>What services are covered by Medicaid?</p>
<p>Submit any allowable unpaid or paid medical expenses to DCF to determine if the share of cost has been met. Once the allowable medical expenses equal the share of cost, the individual is eligible for Medicaid for the rest of that month.</p>	<p>Allowable medical expenses can be used to meet the share of cost for any household member whose income and needs are considered to determine Medicaid eligibility, even if that individual is not Medicaid eligible.</p>	<p>For additional information on the services covered by Medicaid, visit:</p>
<p>Example #1: Your share of cost is \$800. You go to the hospital on May 10 and send us the bill for \$1000. You have met your share of cost. If the provider accepts Medicaid, that bill will be paid and you will be eligible for Medicaid through the end of May.</p>	<p>More information about "share of cost" program Visit our web address below for additional information about the Medically Needy Program, to apply for benefits, or a listing of DCF service centers and fax numbers.</p>	<p>www.ahca.myflorida.com/medicaid/flmedicaid.shtml</p>
<p>Example #2: Your share of cost is \$800. You go to the hospital on May 10 and receive a bill for \$750. On May 12 you go to the physician and receive a bill for \$150. You send us both bills. Your share of cost was met on May 12th because the total of the two medical expenses were more than the amount of your share of cost. If the provider accepts Medicaid, the May 12th bill will be paid and you will be eligible for Medicaid through the end of May. (These are only examples.)</p>	<p>For information about Medicaid providers visit www.mymedicaid-florida.com</p>	
<p>www.myflorida.com/accessflorida</p>		<p>Important Information</p>
<p>www.myflorida.com/accessflorida</p>		<p>Some medical providers do not accept Medicaid or Medically Needy.</p>
<p>www.myflorida.com/accessflorida</p>		<p>Remember to tell your provider that you are on Medically Needy <u>before</u> making an appointment.</p>
<p>www.myflorida.com/accessflorida</p>		 <p>OFFICE OF ECONOMIC SELF-SUFFICIENCY MYFLFAMILIES.COM</p>