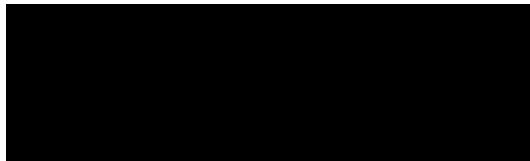


Feb 11, 2016

Office of Appeal Hearings  
Dept. of Children and Families

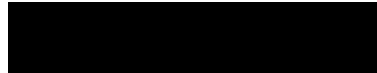
STATE OF FLORIDA  
DEPARTMENT OF CHILDREN AND FAMILIES  
OFFICE OF APPEAL HEARINGS



APPEAL NO. 15F-08799

PETITIONER,

Vs.



FLORIDA DEPARTMENT  
OF CHILDREN AND FAMILIES  
CIRCUIT: 18 Brevard  
UNIT: 55207

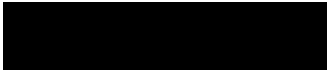
RESPONDENT.

\_\_\_\_\_ /

**FINAL ORDER**

Pursuant to notice, the undersigned telephonically convened an administrative hearing in the above-referenced matter at 2:30 p.m. on December 30, 2015. The recorder incorrectly states the time as 12:30 p.m.

**APPEARANCES**

For the Petitioner:  petitioner's partner

For the Respondent: Jill Dike, ACCESS Supervisor

**STATEMENT OF ISSUE**

At issue is whether the respondent's action to enroll the petitioner in the Medically Needy (MN) Program with a Share of Cost (SOC) is proper. The respondent carries the burden of proof by the preponderance of evidence.

**PRELIMINARY STATEMENT**

By notice dated September 18, 2015, the respondent (or the Department) notified the petitioner his August 24, 2015, application was approved and he was enrolled in MN

with a \$768 SOC. Petitioner timely requested a hearing to challenge enrollment in the MN Program.

Petitioner was present and provided testimony. Emily Fuoco, ACCESS Economic Self-Sufficiency Specialist, appeared as an observer. Petitioner did not submit exhibits. Respondent submitted five exhibits, entered as Respondent Exhibits "1" through "5". The record was held open until December 31, 2015, for the respondent and petitioner to submit exhibits. The exhibits were received timely and entered as Petitioner Exhibit "1" and Respondent Exhibit "6". The record was closed on December 31, 2015.

#### **FINDINGS OF FACT**

1. On August 24, 2015, petitioner submitted a recertification application for Food Assistance and Medicaid benefits for himself and his partner. Medicaid for the petitioner is the only issue.
2. Petitioner received Supplemental Security Income (SSI) until August 31, 2015. Therefore, petitioner received full Medicaid through the Social Security Administration (SSA).
3. In November 2015, the SSA changed petitioner's SSI to \$968 Social Security Disability Income (SSDI), which terminated his full Medicaid through the SSA.
4. For petitioner to be eligible for full Medicaid, his income cannot exceed the income limit of \$864. Petitioner's \$968 SSDI exceeds the \$864 income limit. The next available program is MN with a SOC.
5. The Department calculated petitioner's SOC as follows:

\$968	SSDI
-\$ 20	unearned income disregard
<u>-\$180</u>	<u>MN income level (MNIL) for a household size of one</u>
\$768	SOC

6. On September 18, 2015, the Department mailed petitioner a Notice of Case Action, notifying his August 24, 2015, application was approved and he was enrolled in MN with a \$768 SOC.

7. Petitioner's representative stated petitioner exceeds his SOC every month. And petitioner prefers to have full Medicaid rather than MN with a SOC.

**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 Fla. Stat. § 409.285.

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

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

(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.

11. The Department's Policy Manual, CFOP 165-22, Appendix A-9, sets forth 88 percent of the federal poverty level (FPL) for a household size of one at \$864.

12. In accordance with the above authority (#10), petitioner's income cannot exceed 88% of the FPL. Petitioner \$968 SSDI exceeds the \$864 FPL for a household size of one. Therefore, petitioner is not eligible for full Medicaid.

13. The Fla. Admin. Code R. 65A-1.713, SSI-Related Medicaid Income

Eligibility Criteria states in part:

(h) For Medically Needy, income must be less than or equal to the Medically Needy income standard after deduction of allowable medical expenses...

(4)(c) Medically Needy. The amount by which the individual's countable income exceeds the Medically Needy income level, called the "share of cost"...

14. The above authority explains MN provides coverage for individuals who do not qualify for full Medicaid due to income.

15. Federal Regulations at 20 C.F.R. § 416.1124 explains unearned income not counted and states in part "(c) Other unearned income we do not count... (12) The first \$20.00 of any unearned income in a month..."

16. The Fla. Admin. Code R. 65A-1.716 sets forth the MNIL at \$180 for a family size of one.

17. In accordance with the authorities, respondent deducted \$20 unearned income and \$180 MNIL from petitioner's \$968 SSDI to arrive at \$768 SOC.

18. In careful review of the cited authorities and evidence, the undersigned concludes the respondent is correct in approving petitioner in the MN Program with a \$768 SOC.

### **DECISION**

Based upon the foregoing Findings of Fact and Conclusions of Law, the appeal is denied and 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 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   11   day of   February  , 2016,

in Tallahassee, Florida.



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Priscilla Peterson  
Hearing Officer  
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Copies Furnished To: [REDACTED] Petitioner  
Office of Economic Self Sufficiency