

Jan 12, 2016

Office of Appeal Hearings  
Dept. of Children and Families

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

[REDACTED]

APPEAL NO. 15F-08868

PETITIONER,

Vs.

[REDACTED]

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

RESPONDENT.

\_\_\_\_\_ /

**FINAL ORDER**

Pursuant to notice, the undersigned telephonically convened an administrative hearing in the above-referenced matter at 11:00 a.m. on November 20, 2015.

**APPEARANCES**

For the Petitioner: [REDACTED] pro se

For the Respondent: Jill Dike, ACCESS Supervisor

**STATEMENT OF ISSUE**

At issue is whether the respondent's action to terminate petitioner's child [REDACTED] full Medicaid and instead enroll her 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 August 13, 2015, the respondent (or the Department) notified the petitioner that full Medicaid for [REDACTED] would end on August 31, 2015 and [REDACTED] was enrolled in

the MN with a \$2,573 SOC, effective September 2015. Petitioner timely requested a hearing to challenge JT's full Medicaid termination and enrollment in the MN program.

Petitioner did not submit exhibits. Respondent submitted five exhibits, entered as Respondent Exhibits "1" through "5". Petitioner did not receive the respondent's exhibits and elected to proceed with the hearing without the respondent's exhibits. The record was held open through end of business day on November 20, 2015, for the respondent to submit an additional exhibit. The exhibit was received timely and entered as Respondent Exhibit "6". The record was closed on November 20, 2015.

### **FINDINGS OF FACT**

1. Prior to the action under appeal, JT received full Medicaid benefits.
2. On July 27, 2015, petitioner submitted a web application for Food Assistance and Medicaid benefits for herself, her boyfriend [REDACTED], their mutual child [REDACTED], age two and petitioner's other minor child. All household members are in the same tax filing unit. Medicaid for [REDACTED] is the only issue.
3. Petitioner is employed at [REDACTED] and is paid weekly. CT is employed at [REDACTED] [REDACTED] and is paid biweekly.
4. The respondent determined the household income using paystubs provided by the petitioner. The income is as follows:

<u>[REDACTED]</u>	<u>Date</u>	<u>Gross amount</u>
	07/02/15	\$163.28
	07/09/15	\$224.54
	07/16/15	\$163.61
	<u>08/05/15</u>	<u>\$138.10</u>
		\$689.53

[REDACTED]	Date	Gross amount
	07/20/15	\$1,144.50
	08/05/15	\$1,324.65
		\$2,469.15
	\$ 689.53	[REDACTED]
	+\$2,469.15	[REDACTED]
	\$3,158.68	total household income

5. For [REDACTED] to be eligible for full Medicaid, the household income for a household size of four cannot exceed \$2,688. Petitioner's \$3,158.68 household income exceeds \$2,688; therefore, [REDACTED] is not eligible for full Medicaid. The next available program is MN with a SOC.

6. The Department subtracted \$585, the MN income level for a household size of four, from \$3,158.68 (total household income) to arrive at [REDACTED] \$2,573 SOC.

7. On August 13, 2015, the respondent mailed petitioner a Notice of Case Action, notifying petitioner that Medicaid for [REDACTED] would end on August 31, 2015 and [REDACTED] was enrolled in the MN program with a \$2,573 SOC, effective September 2015.

8. Petitioner stated that the household income has not changed and she does not understand the reason [REDACTED] is now in the MN program.

9. Respondent's representative explained that [REDACTED] received 12 months of continuous Medicaid from September 2014 through August 2015. Therefore, [REDACTED] is no longer eligible for full Medicaid, due to income.

### **CONCLUSIONS OF LAW**

10. 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.

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

12. Federal Regulations at 42 C.F.R. § 435.603 “Application of modified adjusted gross income (MAGI)” 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.

(b) Definitions. For purposes of this section—

*Child* means a natural or biological, adopted or step child.

*Code* means the Internal Revenue Code.

*Family size* means the number of persons counted as members of an individual's household....

*Parent* means a natural or biological, adopted or step parent.

*Sibling* means natural or biological, adopted, half, or step sibling....

(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...

13. The above authority explains all household members and their income are counted in the Medicaid eligibility determination.

14. Fla. Admin. Code R. 65A-1.707 Family-Related Medicaid Income and Resource

Criteria, states in part:

(1) Family-related Medicaid income is based on the definitions of income, resources (assets), verification and documentation requirements as follows:

(a) Income. Income is earned or non-earned...

15. In accordance with the above authorities, the Department included petitioner's income from [REDACTED] (\$689.53) and [REDACTED]'s income from [REDACTED] (\$2,469.15), in determining [REDACTED]'s Medicaid eligibility.

16. Fla. Admin. Code R. 65A-1.703 Family-Related Medicaid Coverage Groups, states in part:

(3) Medicaid for children not yet age 19. To be eligible for this coverage group the child must meet the general requirements specified in Rule 65A-1.705, F.A.C. The following additional criteria apply...

(b) 2. Age one to age six is less than or equal to 133 percent of the federal poverty level...

17. In accordance with the above authority, for [REDACTED] to be eligible for full Medicaid the household income must be less than or equal to 133 percent of the federal poverty level (FPL).

18. The Department's Program Policy Manual (Policy Manual), CFOP 165-22, Appendix A-7, sets forth 133 percent of the FPL at \$2,688 for a child age one through 5, with a household size of four. Petitioner's \$3,158.68 household income exceeds \$2,688; therefore, [REDACTED] is not eligible for full Medicaid.

19. The Department's Policy Manual, Appendix A-7, sets forth the MN income level at \$585 for a household size of four.

20. Fla. Admin. Code R. 65A-1.707 Family-Related Medicaid explains:

(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...

21. In accordance with the above authority, the Department subtracted \$585 (MN income level for a household size of four) from \$3,158.68 (petitioner's household income) to arrive at \$2,573 SOC for JT.

22. Fla. Stat. § 409.904 Optional payments for eligible persons, explains Continuous Medicaid and in part states:

(6)A child who has not attained the age of 19 who has been determined eligible for the Medicaid program is deemed to be eligible for a total of 6 months, regardless of changes in circumstances other than attainment of the maximum age. **Effective January 1, 1999, a child who has not attained the age of 5 and who has been determined eligible for the Medicaid program is deemed to be eligible for a total of 12 months regardless of changes in circumstances other than attainment of the maximum age.** (emphasis added)

23. Additionally, the Department's Policy Manual section 0830.0800 CONTINUOUS MEDICAID ELIGIBILITY (MFAM) states:

After Medicaid eligibility has been established, children who become ineligible for Medicaid for any reason may remain on Medicaid for up to twelve months from the last application, eligibility review or addition to Medicaid coverage. **Children up to age 5 receive a minimum of twelve months of continuous Medicaid coverage.** (emphasis added) Children age five up to 19 receive a minimum of six months of continuous Medicaid coverage.

If it is later discovered that the child was not eligible at the point eligibility was determined, continuous Medicaid does not apply. An ex parte review must be completed to explore eligibility in other categories.

Note: A child determined eligible for Medicaid any day prior to turning age five continues to receive Medicaid for twelve months without redetermination or verification of eligibility. Months of Medicaid received since the most recent application or eligibility review count toward the six or twelve months of continuous Medicaid eligibility. Count the first month of eligibility as month one if the last action is an application. If the last action is an eligibility review, count as month one the month following the date the eligibility review was completed. Retroactive Medicaid does not count as a month of continuous Medicaid coverage.

24. The above authority and Department's Policy Manual explain children up to age 5 receive 12 months of continuous Medicaid after Medicaid eligibility has been established. In this case, [REDACTED] received full Medicaid from September 2014 through August 2015.

25. In careful review of the cited authorities and evidence, the undersigned concludes that the Department was correct in terminating [REDACTED]'s full Medicaid and enrolling [REDACTED] in the MN program with a \$2,573 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   12   day of   January  , 2016,

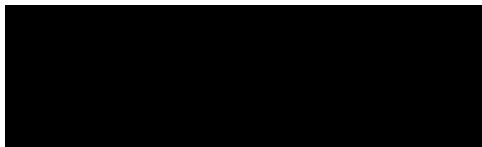
in Tallahassee, Florida.



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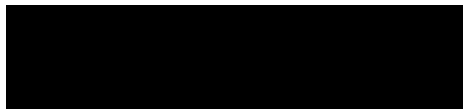
Copies Furnished To: [REDACTED] Petitioner  
Office of Economic Self Sufficiency

Jan 08, 2016

Office of Appeal Hearings  
Dept. of Children and FamiliesSTATE OF FLORIDA  
DEPARTMENT OF CHILDREN AND FAMILIES  
OFFICE OF APPEAL HEARINGSAPPEAL NO. 15F-08886  
15F-08887

PETITIONER,

Vs.

FLORIDA DEPARTMENT  
OF CHILDREN AND FAMILIES  
CIRCUIT: 17 Broward  
UNIT: 88597

RESPONDENT. \_\_\_\_\_ /

**ORDER TO DISMISS**

Pursuant to notice, the undersigned convened a telephonic administrative hearing in the above-referenced matter on December 2, 2015 at 9:02 a.m. The petitioner was present and represented himself. Marilyn Newton, supervisor, represented the Department. The hearing was reconvened on December 18, 2015 at 2:03 pm with the same parties. All parties appeared telephonically from different locations.

At issue, the petitioner is appealing the Food Assistance Program (FAP) benefits \$16, stating he believes he was entitled to more. The petitioner is also seeking retroactive coverage of the Qualifying Individual 1 (QI 1) benefits for the months of June, July, and August of 2015.

During the initial hearing, the merits of the case were discussed. The petitioner did not agree with the FAP of \$16 and he believed that he is entitled to retroactive QI 1 benefits for the months of June, July, and August of 2015. The record remained open



until December 7, 2015 for further evidence to be submitted by both the petitioner and the respondent. The following was requested from the respondent: the budgets for the FAP and QI 1, FAP and QI 1 Income Limits, the Notice of Case Action (NOCA) for the QI 1 benefit, Medicare Coverage screen updates, and the running record comments beginning April 1, 2015 to the present. The respondent provided the budget screens for both benefits, the income limits for both benefits, the NOCA for the QI 1 benefit and the Medicare coverage screen. There was no evidence submitted by the petitioner.

Upon review of the additional evidence submitted by the respondent, it was determined that the hearing needed to be reconvened. As the merits of the case were being discussed, the petitioner requested to withdraw his FAP appeal and the QI 1 eligibility appeal. The petitioner had no other issues that needed to be addressed.

Based on the petitioner's request, both appeals are hereby dismissed.

DONE and ORDERED this 08 day of January, 2016,  
in Tallahassee, Florida.



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