

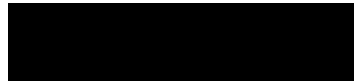
Feb 02, 2016

Office of Appeal Hearings
Dept. of Children and FamiliesSTATE OF FLORIDA
DEPARTMENT OF CHILDREN AND FAMILIES
OFFICE OF APPEAL HEARINGS

APPEAL NO. 15F-09304

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 9:30 a.m. on December 11, 2015.

APPEARANCESFor the Petitioner:  pro se

For the Respondent: Anthony Barresi, ACCESS Supervisor

STATEMENT OF ISSUE

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

PRELIMINARY STATEMENT

By notice dated October 16, 2015, the respondent (or the Department) notified the petitioner her September 18, 2015 application was approved for MN with a \$659 SOC. Petitioner timely requested a hearing to challenge enrollment in the MN program.

Petitioner did not submit exhibits. Respondent submitted five exhibits, entered as Respondent Exhibits “1” through “5”. The record was held open through end of business day on December 11, 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 December 11, 2015.

FINDINGS OF FACT

1. On September 18, 2015, petitioner (age 50) submitted a Medicaid application for herself. The application indicates petitioner is disabled and receives \$859 Social Security Disability Income (SSDI).
2. Petitioner receives Medicare part “B”. Therefore, she is not eligible for full Medicaid benefits. The next available program is the MN with a SOC.
3. The Department determined petitioner’s SOC as follows:

\$859.00	SSDI
-\$ 20.00	unearned income disregard
-\$180.00	MN Income Limit (MNIL) for a household size of one
<hr/>	
\$659.00	SOC

4. October 16, 2015, the Department notified the petitioner her September 18, 2015 application was approved and she was enrolled in MN with a \$659 SOC.
5. Petitioner asserts that the 2015 Florida Poverty Line Guidelines list \$980.83 as the income limit for a family size of one; therefore, she is eligible for full Medicaid. Petitioner did not submit evidence to support her assertion.
6. Respondent’s representative responded that the State of Florida has two different Medicaid programs; Family-Related Medicaid and SSI-Related Medicaid. And petitioner is considered in the SSI-Related Medicaid due to receiving SSDI.

7. Petitioner responded that she understands the reason she is not eligible for full Medicaid. And would like something in writing stating she is not eligible for full Medicaid.

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. Medicaid eligibility is based on Federal Regulations. There are two categories of Medicaid that the Department determines eligibility for: (1) Family-Related Medicaid for parents and children, and pregnant women, and (2) Adult-Related (referred to as SSI-Related Medicaid) for disabled adults and adults 65 or older.

11. Petitioner does not have minor children and is not pregnant; therefore, she is not eligible for Family-Related Medicaid. Petitioner is a disabled adult; therefore, her eligibility is determined under SSI-Related Medicaid.

12. 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

13. Fla. Stat. § 409.904 Optional payments for eligible persons in part states:

(1) Subject to federal waiver approval, a person who is age 65 or older or is determined to be disabled, whose income is at or below 88 percent of the federal poverty level, whose assets do not exceed established limitations, and who is not eligible for Medicare or, if eligible for Medicare, is also eligible for and receiving Medicaid-covered institutional care services, hospice services, or home and community-based services. The agency shall seek federal authorization through a waiver to provide this coverage.

14. In accordance with the above authority petitioner is not eligible for full Medicaid because she is Medicare eligible and is not receiving “Medicaid-covered institutional care services, hospice services, or home and community-based services”.

15. 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”...

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

17. Federal Regulations at 20 C.F.R. § 416.1124 explain 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...”

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

19. In accordance with the authorities, respondent deducted \$20 unearned income and \$180 MNIL from petitioner’s \$859 SSDI to arrive at \$659 SOC.

20. 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 \$659 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 02 day of February, 2016,

in Tallahassee, Florida.



Priscilla Peterson
Hearing Officer
Building 5, Room 255
1317 Winewood Boulevard
Tallahassee, FL 32399-0700
Office: 850-488-1429
Fax: 850-487-0662
Email: Appeal.Hearings@myflfamilies.com

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