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

FILED
Feb 08, 2016
Office of Appeal Hearings
Dept. of Children and Families

[redacted]

APPEAL NO. 15F-09573

PETITIONER,

Vs.

[redacted]

FLORIDA DEPARTMENT
OF CHILDREN AND FAMILIES
CIRCUIT: 07 Putnam
UNIT: 88371

RESPONDENT.
_____/

## FINAL ORDER

Pursuant to notice, the undersigned convened a telephonic administrative hearing in the above-referenced matter on December 29, 2015 at 11:35 a.m.

## APPEARANCES

For the Petitioner: The petitioner was present and represented himself.

For the Respondent: Diane Washington, Economic Self-Sufficiency Specialist II for the Department of Children and Families (DCF).

## ISSUE

The petitioner is appealing the Department's action on November 18, 2015 to continue his enrollment in the Medically Needy (MN) program with an estimated monthly share of cost (SOC) of $1319.

The petitioner held the burden of proof by a preponderance of the evidence.

## PRELIMINARY STATEMENT

Appearing as a witness for the petitioner was his wife, [redacted]

Appearing as an observer was Pamela Vance, hearing officer for the Office of Appeal Hearings with DCF.

The record was held open until 5:00 p.m. on January 4, 2016 to allow the respondent to submit additional evidence. Evidence was received and entered as the Respondent Exhibit 3.

## FINDINGS OF FACT

1. Prior to the issue under appeal, the petitioner was receiving Supplemental Security Income (SSI). The petitioner's wife began receiving Social Security income, which caused the petitioner to no longer be eligible for SSI effective March 31, 2015. The petitioner's full-coverage Medicaid was terminated effective April 30, 2015. The petitioner was enrolled in the MN program beginning May 2015.

2. On November 12, 2015, the petitioner's wife completed an application to recertify for Food Assistance Program (FAP) and Medicaid benefits for the petitioner, age 64, and herself, age 62.

3. The Department included in the MN budget, the petitioner's Social Security income in the amount of $597 and his wife's Social Security income in the amount of $983, for a total countable unearned income of $1580. The $1580 income exceeded the Medicaid for the Aged or Disabled (MEDS-AD) income limit of $1169 for two persons. The income was reduced by the $20 standard deduction to result in a countable income of $1560. The countable income of $1560 was reduced by the $241 Medically Needy Income Level (MNIL) for two persons for a remaining SOC in the

amount of $1319. Therefore, the Department continued his enrollment in the Medically Needy Program with an estimated SOC in the amount of $1319.

4. The petitioner does not dispute the amount of the monthly gross income for himself and his wife. The petitioner and the petitioner's wife confirm he was enrolled in the MN program since May 1, 2015 but he was not aware because he did not receive a notification. The petitioner's wife argues that when the petitioner was enrolled in the Prestige Plan and receiving full-coverage Medicaid, he could go to any pharmacy he wanted to get his prescriptions refilled.

5. The petitioner's wife contends that the petitioner received correspondence from his health plan provider, Prestige Plan, informing him that the open-enrollment period was ending and that if he did not want to make any changes, he did not have to take any action. He was instructed to make changes, if any, by the end of March 31, 2015. The petitioner and the petitioner's wife was under the impression that the petitioner was still covered under full-coverage Medicaid.

6. The petitioner's wife believes that the petitioner is entitled to receive full-coverage Medicaid because he has been determined disabled by the Social Security Administration (SSA). The petitioner's wife argues that the petitioner is undergoing a hardship when he has to get his prescriptions filled because the Department does not track his bills on time once he meets his SOC amount.

7. The petitioner argues that he has issues with going to the doctor now that he is on the MN program. The petitioner's wife contends that she was informed that there is no health plan or Medicaid identification card for the MN program. The petitioner's

husband receives a Notice of Case Action to inform him that he has met his monthly SOC for the previous month. The petitioner contends that once he meets the SOC, his doctor is required to get approval for his procedures and for his prescriptions; then it will take another five days to one week to get the prescription filled. The petitioner argues that he sometimes he goes through an entire month without getting his prescription filled if he does not get a procedure done early enough in the month in order to get his bill tracked for approval.

8. The petitioner's wife argues that sometimes the Department does not receive the faxed medical bills and she has to refax the bills. The petitioner's wife argues that on November 10, 2015, a medical bill was submitted to the Department. The petitioner's wife argues that the Medicaid for November 2015 was approved on November 17, 2015 and that the petitioner was able to get the prescription filled on November 18, 2015. The petitioner's wife argues there is a glitch in the system, which is detrimental to the petitioner's health. The petitioner's wife argues that the petitioner's health has declined, which is partly due to the inconsistency in taking his medication. The petitioner's wife believes the petitioner is following all the rules but keeps getting the runaround.

9. The Department explained that once the petitioner's SSI was terminated, he was no longer eligible for full-coverage Medicaid. The Medicaid program is income-based. The Department pointed out that the petitioner's SSI was terminated once his wife began receiving Social Security income. The Department explained that since the petitioner's SSI was terminated, he was no longer eligible for the full-coverage Medicaid

benefits that were attached to his receiving the SSI benefits. The evidence presented does not indicate that the petitioner receives Medicare.

10. The Department explained that when a medical bill is received for tracking, it attempts to respond within two days. The Department explained that it is allowed up to 10 days to track a medical bill. The Department's records show that on Friday, December 11, 2015, the petitioner submitted a medical bill with a service date of December 10, 2015. The Department tracked the petitioner's medical bill on December 14, 2015.

## CONCLUSIONS OF LAW

11. The Department of Children and Families, Office of Appeal Hearings has jurisdiction over the subject matter of this proceeding and the parties, pursuant to § 409.285, Fla. Stat. This order is the final administrative decision of the Department of Children and Families under § 409.285, Fla. Stat.

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

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

> (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.

14. The Department's Program Policy Manual (Policy Manual), CFOP 165-22, Appendix A-9, effective July 2015, sets forth the MEDS-AD income limit at $1169 for a

couple.

15. The above controlling authority explains that the full coverage Medicaid coverage group (MEDS-AD Demonstration Waiver) in the SSI-related Programs is for individuals who are not receiving Medicare and whose income is at, or below, 88 percent of the poverty level. The findings show that the petitioner does not receive Medicare; however, his household's income is above 88 percent of the poverty level for a couple. Therefore, the undersigned concludes that petitioner does not qualify for full coverage Medicaid as his and his wife's combined countable income is above 88 percent of the poverty level (currently $1169 for a couple).

16. Fla. Admin. Code R. 65A-1.710 SSI-Related Medicaid Coverage Groups states in part:

> (5) Medically Needy Program. A Medicaid coverage group, as allowed by 42 U.S.C. §§ 1396a and 1396d, for aged, blind or disabled individuals (or couples) who do not qualify for categorical assistance due to their level of income or resources. The program does not cover nursing facility care, intermediate care for the developmentally disabled services, or other long-term care services.

17. Fla. Admin. Code R. 65A-1.713 SSI-Related Medicaid Income Eligibility Criteria states in part:

> (1) Income limits. An individual's income must be within limits established by federal or state law and the Medicaid State Plan. The income limits are as follows:
> (h) For Medically Needy, income must be less than or equal to the Medically Needy income standard after deduction of allowable medical expenses.
> (2) (c) Medically Needy. The amount by which the individual's countable income exceeds the Medically Needy income level, called the "share of cost", shall be considered available for payment of medical care and

services.

18. The Medicaid income limits are set forth in the Fla. Admin. Code at R. 65A-1.716 :

> (1) The monthly federal poverty level figures based on the size of the filing unit…
> (2) Medicaid income and payment eligibility standards and Medically Needy income levels are by family size as follows…
> Size…2 Level $241…

19. The Policy Manual, passage 2440.0322 Standard Disregard (MSSI) states in part,

> This policy applies to MEDS-AD, MN, QMB, SLMB, QI-1, Working Disabled, Protected Medicaid and EMA. A $20 per month standard disregard applies to any type (earned or unearned) of income other than income which is provided on the basis of need. The amount of the disregard is not increased for a couple, regardless of whether one or both individuals have income.

20. 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."

21. The Policy Manual, passage 2640.0500 SHARE OF COST (MSSI), explains the Medically Needy Program as:

> The eligibility specialist must determine eligibility for Medically Needy any time the assistance group's assets and/or income exceeds the appropriate categorical asset/income limits. The eligibility specialist determines whether the assistance group's assets are within the Medically Needy asset limits and whether the assistance group members meet the technical factors. If the Medically Needy asset limit is met and the

> assistance group meets all technical factors, the eligibility specialist determines the amount of countable income and computes a budget using the MNIL which is the same for both family and SSI-Related Medicaid coverage groups (refer to Appendix A-7).
>
> If income is equal to or less than the MNIL, there is no share of cost and the individual is eligible. Medicaid is authorized for individuals who are eligible without a share of cost.
>
> If income is greater than the MNIL, share of cost is determined for appropriate members. Appropriate members are enrolled but cannot be eligible until the share of cost is met.

22. The Respondent Exhibit 3 includes the Department's "ACCESS Case Maintenance Unit Guide" which explains the case management unit (CMU) procedures for bill tracking. The ACCESS CMU guide explains that the CMU processes the bill tracking for all medical bills it receives for those enrolled in the MN program. The guide states:

> a. Scanning Medical Bills: The Customer Service Centers will scan medical bills received at its site for enrolled Medically Needy cases to the CMU.
> b. Recurring Medical Bills: Regularly recurring medical bills received monthly by the CMU (i.e. pharmacy bills or recurring medical treatment such as dialysis or chemotherapy) should be processed as follows:
> - Track bills received by close of business the following day.
> - Track bills received on a Friday or Holiday by close of business the following business day.
> - Fax an AMIC to the provider, if requested by the customer or the provider.
>
> …
> d. One-time/infrequent Bills: Track one-time or infrequently recurring (less frequent than monthly) medical bills no later than 10 calendar days from date of receipt.

23. The petitioner and his wife argue that the Department's CMU does not track his bills in a timely manner in order to obtain medications necessary to treat his

worsening medical conditions. The petitioner's wife argues that the petitioner is inconsistent in taking his medications due to the Department's delay in processing his medical bills. The findings show that the petitioner regularly submits his medical bills on, or around, the 10th of each month. Based on the findings and the above authority, the undersigned concludes that the petitioner has recurring medical bills that are submitted on or around the 10th of each month. Therefore, the undersigned concludes that the Department was untimely in processing the medical bills for November 2015 and was timely in processing the medical bills submitted for the month of December 2015. The Department is to process the petitioner's submitted recurring medical bills as directed in its CMU bill tracking guide.

24. The income limit for a couple to be eligible for full Medicaid in the SSI-Related Programs is $1169. The petitioner's and the petitioner's combined countable income of $1580 exceeds the income limit for the petitioner to be eligible for full Medicaid Program coverage. The petitioner was enrolled in the Medically Needy Program with a share of cost. The petitioner's share of cost was calculated by including his and his wife's countable gross monthly income less the standard disregard and Medically Needy Income Level (MNIL) for a couple. The gross monthly household unearned income of $1580, less the $20 standard disregard and MNIL of $241, equals a share of cost of $1319. The hearing officer found no exception to this calculation. The undersigned concludes that the respondent's action to continue the petitioner's enrollment in the Medically Needy Program and to determine the amount of the monthly share of cost as $1319 was a correct action.

## DECISION

Based upon the foregoing Findings of Fact and Conclusions of Law, this appeal is denied.

## 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 08 day of February, 2016, in Tallahassee, Florida.

Paula Ali

Paula Ali
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