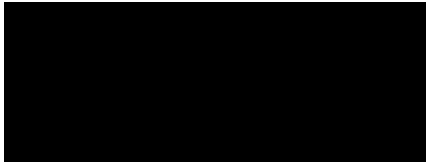


STATE OF FLORIDA
DEPARTMENT OF CHILDREN AND FAMILIES
OFFICE OF APPEAL HEARINGS

FILED

Feb 08, 2016

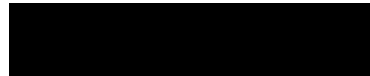
Office of Appeal Hearings
Dept. of Children and Families



APPEAL NO. 15F-09700

PETITIONER,

Vs.



FLORIDA DEPARTMENT
OF CHILDREN AND FAMILIES
CIRCUIT: 07 Putnam
UNIT: 88325

RESPONDENT.

_____ /

FINAL ORDER

Pursuant to notice, the undersigned convened a telephonic administrative hearing in the above-referenced matter on January 12, 2016 at 9:12 a.m.

APPEARANCES

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

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

ISSUE

The petitioner is appealing the Department's action on October 18, 2015 to enroll her in the Medically Needy (MN) program with an estimated monthly share of cost (SOC) of \$788.

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

FINDINGS OF FACT

1. On October 8, 2015, the petitioner (age 67) completed an application for Food Assistance Program (FAP) and SSI-Related Medicaid benefits for herself only. The petitioner listed on her application gross monthly income of \$988.

2. The Department determined the petitioner to be ineligible for full-coverage Medicaid due to her not meeting the Medicaid for the Aged or Disabled (MEDS-AD) income guideline for an individual. The Department enrolled the petitioner in the Medically Needy (MN) program.

3. The Department included in the MN budget, the petitioner's Social Security income in the amount of \$988. The Social Security income in the amount of \$988 was reduced by the \$20 unearned standard deduction to result in total countable income of \$968. The total countable income was reduced by the \$180 Medically Needy Income Level (MNIL) for an individual for a remaining SOC in the amount of \$788.

4. The petitioner does not dispute the amount of the monthly gross income for herself. The petitioner believes she is entitled to full-coverage Medicaid because she was eligible prior to moving to Florida from Virginia. The petitioner argues that she pays \$555 for rent, automobile, and animal expenses; she does not have any money left to purchase her prescriptions. The petitioner is receiving Medicare; there was no evidence presented to show that the petitioner is receiving any Medicaid covered institutional care or waiver services.

5. The Department explained that the state of Florida runs its Medicaid program differently than the state of Virginia. The Department explained that its Medicaid

program is income-based. The Department explained that rent and her other expenses are not considered in its calculations for the Medicaid program.

CONCLUSIONS OF LAW

6. 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.

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

8. 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.

9. 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. If the individual is receiving Medicare, he or she is eligible for full-coverage Medicaid if eligible for Medicaid covered institutional care services, hospice, or other community based waiver services. The findings show that the petitioner receives Medicare but does not receive any of the community-based services

that would make her eligible for full-coverage Medicaid.

10. 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...1 Level \$180...

11. 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.

12. The petitioner was enrolled in the Medically Needy Program with a share of cost. The petitioner's share of cost was calculated by including her countable gross monthly income less the standard disregard and the Medically Needy Income Level (MNIL) for an individual. The gross monthly household unearned income of \$988, less the \$20 unearned income deduction and MNIL of \$180, equals a share of cost of \$788. The hearing officer found no exception to this calculation. The undersigned concludes that the respondent's action to enroll the petitioner in the Medically Needy Program and to determine the amount of the monthly share of cost as \$788 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
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