

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

**FILED**  
DEC 03 2009  
OFFICE OF APPEAL HEARINGS  
DEPT OF CHILDREN & FAMILIES

APPEAL NO. 09F-05772

PETITIONER,

Vs.

CASE NO. 1072962641

FLORIDA DEPT OF CHILDREN AND FAMILIES  
CIRCUIT: 17 Broward  
UNIT: 88139

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

**FINAL ORDER**

Pursuant to notice, an administrative hearing was convened before the undersigned hearing officer on October 15, 2009, at 1:05 p.m., in Fort Lauderdale, Florida. The petitioner was present with \_\_\_\_\_ his wife; \_\_\_\_\_ his niece; and \_\_\_\_\_, his sister-in-law. The respondent was represented by Tarah Bloomfield, Florida Access specialist.

**ISSUE**

At issue is the Department's determination of the petitioner's patient responsibility of \$970.00 in the Institutional Care Program. The petitioner has the burden of proof.

**FINDINGS OF FACT**

1. As of the time of the hearing, the petitioner was a resident of the \_\_\_\_\_, Florida, and his wife, \_\_\_\_\_ lives in the community.

2. As of the time of the hearing, the petitioner's patient responsibility in the Institutional Care Program was \$970.00. This is the monthly amount that he is expected to pay the nursing home.
3. Included in the evidence are copies of FLORIDA computer Monthly Unearned Income screens showing the petitioner's income of \$1,263.00, \$1,559.00, and \$269.00. The \$1,263.00 is the petitioner's monthly gross Social Security benefits, the \$1,559.00 is his Department of Defense pension, and the \$269.00 is his civil service pension. The petitioner's total monthly gross income is \$3,091.00.
4. Included in the community spouse's Maintenance Need Allowance Budget are shelter costs of \$2,025.57 minus \$547.00, which is 30% of the MMMIA, for an excess shelter cost of \$1,478.57. Added to this is a MMMIA amount of \$1,822.00, for a total of \$2,739.00.
5. receives monthly gross Social Security income of \$653.00. In the community spouse's Maintenance Need Allowance budget, \$653.00 is subtracted from \$2,739.00 (MMMIA plus the allowable shelter deduction), for a community spouse income allowance of \$2,086.00. This is the maintenance need allowance in the petitioner's Patient Responsibility Budget.
6. Included in the Patient Responsibility Budget is the petitioner's total monthly gross unearned income of \$3,091.00, minus a personal need allowance of \$35.00, and a maintenance need allowance of \$2,086.00, for a patient responsibility of \$970.00.

#### **CONCLUSIONS OF LAW**

In the Institutional Care Medicaid Program, in accordance with Fla. Admin. Code 65A-1.716(5):

(c) Spousal Impoverishment Standards

1. State's Resource Allocation Standard. The amount of the couple's total countable resources which may be allocated to the community spouse is equal to the maximum allowed by 42 U.S.C. § 1396r-5.
2. State's Minimum Monthly Maintenance Income Allowance (MMMIA). The minimum monthly income allowance the department recognizes for a community spouse is equal to 150 percent of the federal poverty level for a family of two.
3. Excess Shelter Expense Standard. The community spouse's shelter expenses must exceed 30 percent of the MMMIA to be considered excess shelter expenses to be included in the maximum income allowance:  $MMMIA \times 30\% = \text{Excess Shelter Expense Standard}$ . This standard changes July 1 of each year.
4. Food Stamp Standard Utility Allowance: \$198.
5. Cap of Community Spouse Income Allowance. The MMMIA plus excess shelter allowance cannot exceed the maximum amount allowed under 42 U.S.C. § 1396r-5. This standard changes January 1 of each year.

The Department determined a patient responsibility of \$970.00 for the petitioner in the Institutional Care Program. Included in the Patient Responsibility Budget is the petitioner's monthly gross Social Security income of \$1,263.00, his Department of Defense pension of \$1,559.00, and his civil service pension of \$269.00, for a total monthly gross income of \$3,091.00. Subtracted from this is a personal need allowance of \$35.00, and a maintenance need allowance of \$2,086.00, for a patient responsibility of \$970.00. After careful consideration, it is concluded that the Department's determination of a \$970.00 patient responsibility is upheld.

**DECISION**

The appeal is denied and the Department'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

FINAL ORDER (Cont.)

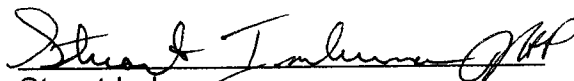
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appropriate District Court of Appeal. The Notices must be filed within thirty (30) days of the date stamped on the first page of the final order. The petitioner must either pay the court fees required by law or seek an order of indigency to waive those fees. The Department has no funds to assist in this review, and any financial obligations incurred will be the petitioner's responsibility.

DONE and ORDERED this 3<sup>rd</sup> day of December, 2009,

in Tallahassee, Florida.



Stuart Imberman  
Hearing Officer  
Building 5, Room 255  
1317 Winewood Boulevard  
Tallahassee, FL 32399-0700  
850-488-1429

Copies Furnished T