

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

[REDACTED]

APPEAL NO. 15F-8557

PETITIONER,

VS.

[REDACTED]

FLORIDA DEPARTMENT  
OF CHILDREN AND FAMILIES  
CIRCUIT: 11 DADE  
UNIT: 88693

RESPONDENT.

\_\_\_\_\_ /

**FINAL ORDER**

Pursuant to notice, the undersigned convened a telephonic administrative hearing in the above-referenced matter on December 29<sup>th</sup>, 2015 at 8:30 a.m.

**APPEARANCES**

For the Petitioner: The petitioner was not present but was represented by

[REDACTED]

For the Respondent: Heather Brooks, Program Administrator for the Economic Self-Sufficiency program.

**STATEMENT OF ISSUE**

The petitioner is appealing the respondent's actions to terminate his son's Medicaid, and enroll him in the Medically Needy program with an assigned share of cost. The respondent carries the burden of proving its position by a preponderance of the evidence.

### **PRELIMINARY STATEMENT**

The hearing was originally scheduled for on December 7<sup>th</sup>, 2015. The petitioner then requested that the hearing be rescheduled, and a continuance was granted for December 15<sup>th</sup>, 2015. On that date, the respondent did not appear and the hearing was necessarily rescheduled. The hearing convened as described above.

Petitioner's Composite Exhibit 1 was marked into evidence.

Respondent's Exhibits 1 through 4 were marked into evidence.

By way of a Notice of Case Action dated October 2<sup>nd</sup>, 2015, the respondent informed the petitioner that his son would be enrolled in the Medically Needy program with an estimated share of cost (SOC) of \$4,533 effective October 2015. On October 7<sup>th</sup>, 2015, the petitioner filed a timely appeal to challenge the respondent's action.

### **FINDINGS OF FACT**

1. Prior to the action under appeal, the petitioner's son (born in [REDACTED]) received full Medicaid (no SOC assigned) through September 2015.

2. The petitioner submitted an application to recertify on August 27<sup>th</sup>, 2015. The recertification was to be effective October 2015. As part of the recertification process, the respondent is required to explore all factors of eligibility which include, but are not limited to, all sources of countable income.

3. The petitioner is self-employed as an independent contractor for [REDACTED]. [REDACTED] He reported his self-employment earnings as \$3,000 twice a month, or \$6,000 per month. The petitioner also incurs self-employment expenses which come to \$981. These amounts are not in dispute.

4. The respondent took the petitioner's self-employment gross earnings of \$6,000, subtracted \$981 in business expenses, and considered the balance of \$5,019 as income to be used in determining eligibility for his son's Medicaid.

5. The petitioner's son is [REDACTED] and requires round-the-clock care from his mother, who is unable to work due to such. The petitioner's son also requires multiple therapy sessions which the petitioner cannot afford on his own. He contends that his share of cost is too high, and he cannot afford to incur out-of-pocket expenses for his son's medical care if his share of cost is not met. The petitioner explored KidCare, and has also searched for options under the Affordable Health Care Act through the Fair Market Place, but has been unsuccessful in finding anything to suit his son's needs.

#### **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 §120.80, Fla. Stat. This order is the final administrative decision of the Department of Children and Families under § 409.285, Fla. Stat.

7. This hearing was held as a de novo proceeding pursuant to Fla. Admin. Code R. 65-2.056.

8. Fla. Admin. Code R. 65A-1.707 and 65A-1.716 list the Family-Related Medicaid Income and Resource Criteria. These authorities set forth full Medicaid coverage groups available for the household member.

9. 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 cash received at periodic intervals from any source such as wages, self-employment, benefits, contributions, rental property, etc. Cash is money or its equivalent, such as a check, money order or other negotiable instrument. Total gross income includes earned and non-earned income from all sources.... For Medically Needy coverage groups, the amount by which the gross income exceeds the applicable payment standard income level is a share of cost as defined in Rule 65A-1.701, F.A.C. For the CNS criteria, refer to subsection 65A-1.716(1), F.A.C. For the payment standard income levels, refer to subsection 65A-1.716(2), F.A.C.

10. Fla. Admin. Code R. 65A-1.716 Income and Resource Criteria continues:

(2) Medicaid income and payment eligibility standards and Medically Needy income levels are by family size as follows:

Family Size	Income Level
1	\$180
2	\$241
3	<b>\$303</b> <i>[emphasis added]</i> ...

11. The authority cited sets forth the income limits for full Medicaid. The undersigned concludes petitioner's total countable income of \$5,019 exceeds the income standard for a household size of three of \$303. Therefore, the petitioner is not eligible for full Medicaid.

12. The Code of Federal Regulations 42 C.F.R. § 435.310 discusses Medically Needy coverage of specified relatives:

(a) If the agency provides for the medically needy, it may provide Medicaid to specified relatives, as defined in paragraph (b) of this section, who meet the income and resource requirements of subpart I of this part.

(b) Specified relatives means individuals who:

(1) Are listed under section 406(b)(1) of the Act and 45 CFR 233.90(c)(1)(v)(A); and

(2) Have in their care an individual who is determined to be (or would, if needy, be) dependent, as specified in §435.510...

13. Federal Regulation 42 C.F.R. § 435.831 Income eligibility, explains:

The agency must determine income eligibility of medically needy individuals in accordance with this section.

..

(b) Determining countable income. The agency must deduct the following amounts from income to determine the individual's countable income.

(1) For individuals under age 21 and caretaker relatives, the agency must deduct amounts that would be deducted in determining eligibility under the State's AFDC plan.

(c) Eligibility based on countable income. If countable income determined under paragraph (b) of this section is equal to or less than the applicable income standard under §435.814, the individual or family is eligible for Medicaid...

14. The above authority explains Medically Needy provides coverage for individuals who do not qualify for full Medicaid due to income.

15. The ACCESS Florida Program Policy Manual Appendix A-7, Family-Related Medicaid Income Limits chart sets forth a \$486 MNIL for a household size of three.

16. The respondent subtracted the \$486 MNIL from \$5019 to arrive at the \$4,533 share of cost for the petitioner.

17. The ACCESS Florida Program Manual at 2030.1400, Medically Needy Coverage (MFAM) sets forth:

The Medical Needy Program coverage is for individuals who meet the technical requirements of the above coverage groups but whose income exceeds the income limit. If the household's income is great than the income limit, the exceeding amount is determined as the share of cost. The individual is enrolled but is not eligible until the share of cost is met. Medically Needy provides month-to-month coverage when individuals have incurred medical bills that meet their share of cost.

18. A review of the rules and regulations did not find any exception to this formula. Based on a review of the evidence in its totality, the hearing officer concludes that the respondent's action to enroll the petitioner in a Medicaid Medically Needy Program and determine a share of cost of \$4,533 was within the rules of the program.

### **DECISION**

Based on the foregoing Findings of Fact and Conclusions of Law, this 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

FINAL ORDER (Cont.)  
15F-8557  
PAGE 7

the court fees required by law or seek an order of indigence 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 01 day of February, 2016,

in Tallahassee, Florida.



Justin Enfinger  
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](mailto:Appeal.hearings@myFLfamilies.com)

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