

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF HUMAN SERVICES
APPEALS OFFICE
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Docket # 15-1068
Hearing Date: June 9, 2015

Date: July 28, 2015



ADMINISTRATIVE HEARING DECISION

The Administrative Hearing that you requested has been decided. During the course of the proceeding, the following issue(s) and agency policy reference(s) were the matters before the hearing:

**THE DHS POLICY MANUAL: MEDICAL ASSISTANCE
SECTIONS 0392.05, 0396.15, 0396.15.05**

The facts of your case, the agency policy, and the complete administrative decision made in this matter follow. Your rights to judicial review of this decision are found on the last page of this decision.

Copies of this decision have been sent to the following: you, and agency representatives: Robin Almeida, Robert Palin and the Policy Unit.

Present at the hearing were: you, your brother, a representative from the Sherlock Center, your care provider, and Robert Palin (agency representative).

ISSUE: What is the appellant's monthly share payable to his health care provider?

DHS POLICIES:

Please see the attached **APPENDIX** for pertinent excerpts from the Rhode Island Department of Human Services Policy Manual.

DISCUSSION OF THE EVIDENCE:

The agency representative testified:

- The agency representative stated that the agency notified the appellant by notice dated March 22, 2015 that he is responsible to pay a share of his medical expenses to his health care provider effective April 1, 2015. The appellant is an active recipient of Personal Choice Program benefits.
- The agency representative stated that the agency did not receive a December 17, 2014 request for appeal letter from the appellant. The only request for hearing received by the agency is the one received and date stamped March 30, 2015.
- The agency representative stated that the appellant's share amount is determined using the appellant's monthly gross income minus certain allowable deductions. Per agency policy the allowable deductions are subtracted from the appellant's gross.
- The allowable monthly deductions include the maintenance needs allowance deduction (standard amount \$1000.83 effective April 1, 2015), medical insurance premiums, and a medical or remedial care allowance.
- The agency representative submitted copies of verifications of the appellant's income. The agency representative stated that the appellant was allowed to deduct his Medicare Part B premium. The monthly amount is \$104.90. He was also allowed to deduct an additional monthly medical premium expense of \$20.40.
- The agency representative submitted a copy of the calculation used by the agency in determining the appellant's monthly share amount to be \$916.74. The agency used a gross income amount of \$2042.87 minus the standard maintenance needs deduction of \$1000.83 minus the Medicare Premium of \$104.90 minus the additional premium of \$20.40 equal the share amount of \$916.74.
- The agency representative stated that there were no other allowable expenses that the agency could deduct from the appellant's income as of April 1, 2015. He stated that there is no spousal allowance, no dependent allowance, and no medical/remedial items that could be deducted.
- The agency representative stated that the appellant's income is from Social Security Disability and from retirement.
- The agency representative stated that when the appellant started on the program during June 2014 he was allowed a monthly medical/remedial items deduction of \$675.40. The agency allowed the appellant the deduction due to ongoing outstanding medical bills at that time.

- The agency representative stated that the \$675.40 medical expense deduction ended effective December 31, 2014 as the expense no longer occurred.
- The agency representative stated that the appellant may want to consider the Shared Living Program where someone would move into his home and share the shelter costs. The appellant may also qualify for less expensive home care through the Department of Elderly Affairs.

The appellant testified:

- He stated that the income used by the agency is slightly over the amount that he actually receives. He stated his monthly Social Security income is \$1700.00 and he gets a retirement pension of \$304.00.
- He stated that his living expenses are high because he owns his own home. He questioned what the agency personal needs deduction included.
- He stated that he was employed for almost 25 years before he became disabled; He has chosen to live in his own home and his monthly mortgage payment is more than \$1000.00. He also has monthly electric, gas, taxes and insurance costs.
- He stated that he wrote a letter to the agency that detailed his ongoing shelter costs. He stated that after all of his shelter costs are paid he barely has any funds left to live on.
- He stated that he only receives \$15.00 per month in Food Stamp benefits. He has lost his sight, he is wheelchair bound, and he pays someone for snow removal and yard maintenance throughout the year. He also needs to spend money to maintain his handicap ramp.
- He does not understand how his monthly share payment went from about \$200.00 to \$900.00. He does not have an outstanding medical bill from a provider at this time. He had outstanding medical bills following several eye surgeries in the past and he had accumulated co-payments.
- He stated that he was hospitalized about 2 weeks ago and may have bills from the hospital stay. He would like to know more about the personal needs standard deduction because he is a person that lives with expenses that compound his debt and his needs exceed the agency standard.
- He stated that he has continued to pay a \$220.00 share each month as part of his Personal Choice budget. He questioned what will happen if the share cannot be

reduced from the \$916.74? He stated that if his share remains at \$916.74 he does not benefit from the program.

He stated that he has ongoing counselling that is not covered by medical insurance.

FINDINGS OF FACT:

1. The agency notified the appellant by notice dated March 22, 2015 that he is required to pay a share of his medical expenses to his health care provider effective April 1, 2015.
2. The agency determined that the appellant was required to pay a share amount of \$916.74.
3. The agency allows certain deductions to be made from a recipient's gross income in calculating the amount due the health care provider.
4. This record of hearing was held open for 30 days to allow the appellant time to submit documentation of his ongoing medical/remedial expenses.

CONCLUSION:

The issue to be decided is whether the appellant's medical expense share amount as determined by the agency is correct. An individual's Medical Assistance share payment to their medical provider is reduced by certain allowable agency deductions from the individual's gross income.

Review of the required share amount calculation policy for an individual with waiver coverage determines the following: The agency calculation of the individual's share amount starts with the individual's gross income, in this case that amount is \$2042.87, minus the following: 1. Maintenance Needs Allowance Deduction (standard)=\$1000.83.

2. Medical Insurance Premiums =\$125.30

3. Costs Incurred for Medical or Remedial Care=\$0.00

The agency determined that the appellant's gross \$2042.87 minus \$1000.83, minus \$125.30 equals \$916.74.

The appellant submitted an inventory of his ongoing monthly shelter costs, home maintenance costs and ongoing living expenses at hearing. Subsequent to the hearing the appellant submitted documentation of his ongoing monthly medical/remedial costs to the record.

The issue that this hearing officer has jurisdiction over is the March 22, 2015 agency notice that determined the appellant is responsible to pay a share of his medical costs to his health care provider such as a nursing home or homemaker agency. Review of the

notice, agency policy, and income verification determines that the appellant's share was calculated correctly based on the income and allowable deductions available at the time the agency March 22, 2015 notice was issued.

This hearing officer has no authority to increase the agency standard maintenance needs allowance deduction i.e. the allowance for shelter costs and related home maintenance costs. The appellant is eligible for the Personal Choice waiver services and he would have entered into a case plan agreement with his LTC case manager at the time of his eligibility determination. The plan would have indicated the number of health care provider hours he was eligible for and at what rate of reimbursement. The appellant's case plan was not submitted to this record so it is not possible to review if the plan provided that information to the appellant and that the appellant agreed to the plan.

The appellant has subsequently submitted documentation of ongoing medical or remedial costs incurred by the appellant on a regular basis. Per agency policy 0396.15.05, "Allowable costs Incurred for Medical or Remedial Care. This deduction is reasonable costs for medical services recognized under state law but not covered in the scope of the Medical Assistance Program. Examples of such items would be hearing aids, chiropractic expenses, or ambulance charges"

The appellant has submitted sufficient documentation of ongoing medical/remedial costs to allow deduction for those expenses. Review of the inventory of expenses submitted post-hearing from the appellant determines that the appellant has ongoing allowable monthly medical/remedial costs of \$355.58.

After a careful review of the agency's policies, as well as, the evidence and testimony given, the Hearing Officer finds that the appellant's monthly share is to be reduced by \$355.58.

ACTION FOR THE AGENCY:

The agency is to allow a monthly \$355.58 medical/remedial deduction from the appellant's share to his in-home provider effective April 1, 2015.

APPEAL RIGHTS (see page 8)



Michael Gorman
Hearing Officer

APPENDIX

OVERVIEW
REV: 06/1994

0392.05

Institutionalized Medical Assistance recipients are required to

apply their income toward the cost of institutional care. Once Categorically Needy or Medically Needy eligibility has been established, and the applicant has been determined eligible for payment of institutional care services, a determination is made of the amount of income that the institutionalized individual must allocate to the cost of care.

The individual may protect certain prescribed amounts of income for specific needs. ONLY the prescribed amounts for the specific purposes may be protected. ALL of the institutionalized individual's remaining income must be used to reduce the Medical Assistance payment for institutional care. The applicant's income, protected amounts, and allocation to the cost of care are computed on a monthly basis.

OVERVIEW

0392.05

The policy in this section applies to individuals who reside in Nursing Facilities and Public Medical Facilities. See Section 0396 for the specific post-eligibility policies which apply to individuals who receive home and community based services under a Waiver. For eligibility determination purposes, children receiving Medical Assistance under the "Katie Beckett" provisions are considered to be institutionalized. However, "Katie Beckett" eligible children are not subject to the post-eligibility process since only regular covered medical services are provided.

Average Cost of Care

0396.15

REV: 06/1994

The post-eligibility treatment of income applies to those individuals who are:

- o Categorically Needy by virtue of having resources within the Categorically Needy limits, and income within the Federal Cap; and,
- o Medically Needy.

SSI RECIPIENTS: SSI recipients, and individuals receiving Categorically Needy Medical Assistance by virtue of 1619(b) status are NOT subject to the post-eligibility process. The SSI payment itself is invisible in the allocation process, and for Waiver program recipients who are also SSI recipients, NONE of the other income of an SSI recipient is subject to the post-eligibility Average Cost of Care process.

0396.15

DHS Long Term Care/Adult Service (LTC/AS) units are responsible for determinations and redeterminations of the post-eligibility allocation of patient income to the cost of Waiver services for all Waiver services recipients who are subject to the post-eligibility process. The calculation starts with the individual's full, gross income, including amounts which were disregarded in the determination of eligibility. For purposes of the post-eligibility process, income means all amounts that are available to the individual that would be defined to be part of the applicant's gross income in the determination of MA financial eligibility

POST-ELIG TREATMENT OF INCOME 0396.15.05
REV: 04/2013

The following is a list of allowable deductions in the order they are to be deducted:

o Maintenance Needs Allowance

The Maintenance Needs Allowance is nine hundred and seventy seven dollars and fifty cents (\$1000.83) per month. This amount is in lieu of the Personal Needs Deduction and the Home Maintenance Deduction available to other institutionalized (non-Waiver) individuals.

o Spouse/Dependent Allowance

This deduction is an allowance for the support of a spouse and any dependents. The basic allowance for a spouse is equal to the monthly medically needy income limit for an individual, less any income of the spouse.

If there are also dependent children to be supported, the Medically Needy Income Limit for the number of children is used.

o Medical Insurance Premiums

This deduction is insurance premiums paid by the individual, such as Medicare, SMI, and medigap policies

POST-ELIG TREATMENT OF INCOME 0396.15.05
such as Blue Cross and Plan 65.

This information will have been previously entered and identified on the STAT/INSU and STAT/MEDI panels.

o Allowable Costs Incurred for Medical or Remedial Care

This deduction is reasonable costs for medical services recognized under state law but not covered in the scope of

the Medical Assistance Program. Examples of such items would be hearing aids, chiropractic expenses, or ambulance charges.

These items are entered on the InRhodes Medical Expense (MEDX) Panel.

Any balance of income remaining after these expenses are deducted is allocated toward cost of home-based services according to the plan worked out with the Case Manager.

Calculation of Income Allocation 0396.15.10.05
REV: 03/2012

From the full gross income of a single individual the following amounts are deducted in order:

- o Maintenance Needs Allowance
- o Medical Insurance Premiums
- o Allowable Costs Incurred for Medical or Remedial Care

Any balance of income remaining after these expenses are deducted is allocated toward the cost of home-based services according to the plan developed with the Case Manager.

*NOTE: To qualify as Medically Needy, an individual must have income within the Medically Needy income limit or incur allowable medical expenses (including the anticipated cost of Waiver services) which exceed the amount of the individual's monthly income which is over the Medically Needy Income Limit.

APPELLATE RIGHTS

This Final Order constitutes a final order of the Department of Human Services pursuant to RI General Laws §42-35-12. Pursuant to RI General Laws §42-35-15, a final order may be appealed to the Superior Court sitting in and for the County of Providence within thirty (30) days of the mailing date of this decision. Such appeal, if taken, must be completed by filing a petition for review in Superior Court. The filing of the complaint does not itself stay enforcement of this order. The agency may grant, or the reviewing court may order, a stay upon the appropriate terms.