

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DEPARTMENT OF HUMAN SERVICES  
APPEALS OFFICE  
600 New London Avenue  
Cranston, Rhode Island 02920  
(401) 462-2132/Fax# (401) 462-0458  
TDD# (401) 462-3363

Docket # 14-1012  
Hearing Date: August 19, 2014

Date: October 1, 2014



**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: your attorney, and agency representatives: Deborah Castellano, Kimberly Tebow, Thomas Conlon, and the Policy Unit.

Present at the hearing were: you, your brother, your attorney and Andrew Geller (agency representative).

**ISSUE:** What is the appellant's monthly share payable to her 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 June 19, 2014 that she is responsible to pay a share of her medical expenses to her health care provider effective May 1, 2014.
- 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 \$992.50), 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 her Medicare Part B premium. The monthly amount is \$104.90.
- The agency representative submitted a copy of the calculation used by the agency in determining the appellant's monthly share amount to be \$295.50. The agency used a gross income amount of \$1392.90 minus the standard maintenance needs deduction of \$992.50 minus the Medicare Premium of \$104.90 equal the share amount of \$295.50.
- The agency representative stated that the appellant's share for the months of January 2014 through April 2014 was \$310.50. He stated that the appellant receives 52 hours per week of home care through the agency Personal Choice waiver program.
- The appellant filed a timely request for hearing received by the agency June 23, 2014.

### **The appellant's attorney testified:**

- She submits that it is her contention that the appellant has more expenses than usual for a single individual's household. The appellant's expenditures exceed her income at this time.
- The appellant is 65 years old and has been determined disabled by Social Security and that has been her only source of income for many years. The appellant suffers from damage to her cerebellum which causes her to have speech difficulty and seizures.

- She stated that the appellant established a Trust in October of 1988 (copy of Trust document submitted) that established a Life Estate with her daughter. The only asset held by the Trust is the appellant's residence.
- The appellant presently has a mortgage on her residence that has an outstanding balance of approximately \$18,000.00. The monthly mortgage payment is \$50.60, monthly homeowners insurance is \$150.00, monthly taxes and sewer are \$400.00, monthly national grid is \$111.40, monthly Verizon bill is \$171.09, monthly water bill is \$13.00, monthly budgeted oil bill is \$374.00, monthly food and necessities are \$160.00.
- The appellant's monthly total shelter related costs and living expenses exceed \$1368.00. The appellant also encounters ongoing household maintenance costs. Recently she had to pay \$1900.00 to have the chimney repaired.
- The appellant's representative submits that the appellant has not been to a dentist in over 5 years because she does not have the money. The representative submits that the appellant's has ongoing CVS medication co-pay amounts.
- The appellant's representative also submitted, post hearing, documentation of out-of-pocket medication costs and ongoing over the counter medical supplies that average more than \$100.00 monthly.
- The appellant's representative also submitted documentation of annual costs incurred by the appellant for her primary care physician, University Medical, and Hudson Accessibility equipment rental cost.
- The appellant's representative submits that the "allowable" deduction is too small and effectively denies [REDACTED] her capability to live at home thereby defeating the essence of the program goal to keep people like her in the home as opposed to the more expensive alternative of a nursing home.
- The appellant lives extremely modestly so this is not a situation where she lives in an expensive setting.

#### **FINDINGS OF FACT:**

1. The agency notified the appellant by notice dated June 19, 2014 that she is required to pay a share of her medical expenses to his health care provider effective May 1, 2014.
2. The agency determined that the appellant was required to pay a share amount of \$295.50.
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's representative time to submit documentation of the appellant's 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 \$1392.90, minus the following: 1. Maintenance Needs Allowance Deduction (standard)=\$992.50.

2. Medical Insurance Premiums =\$104.90

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

The agency determined that the appellant's gross \$1392.900 minus \$992.50, minus \$104.90 equals \$295.50.

Subsequent to the agency June 19, 2014 agency notice the appellant and/or her representative did not submit to the agency any additional allowable expenses that are incurred for either Medical or Remedial Care.

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

The issue that this hearing officer has jurisdiction over is the June 19, 2014 agency notice that determined the appellant is responsible to pay a share of her medical cost to her 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 June 19, 2014 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 she would have entered into a case plan agreement with her LTC case manager at the time of her eligibility determination. The plan would have indicated the number of health care provider hours she 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's representative 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's representative 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's representative determines that the appellant has ongoing allowable monthly medical/remedial costs of \$251.75.

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 \$251.75.

**ACTION FOR THE AGENCY:**

**The agency is to allow a monthly \$251.75 medical/remedial deduction from the appellant's share to her in home provider effective May 1, 2014.**

**APPEAL RIGHTS (see page 8)**

  
Michael Gorman  
Hearing Officer

**APPENDIX**

OVERVIEW 0392.05  
REV: 06/1994

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



seven dollars and fifty cents (\$992.50) 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.