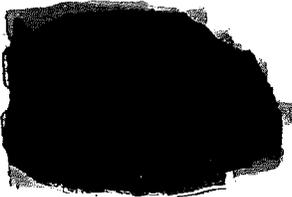


STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF HUMAN SERVICES
APPEALS OFFICE
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Docket # 14-1718
Hearing Date: August 19, 2014

Date: December 10, 2014



ADMINISTRATIVE HEARING DECISION

The Administrative Hearing that you requested has been decided against you. 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 0396.15, 0396.15.05, 0398.10.15.15**

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: Deborah Castellano, Cheryl Lafazia, Debra Turnbull, Thomas Conlon, and the Policy Unit.

Present at the hearing were: you, your Shared Living Contractor and Debra Turnbull. (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 September 10, 2014 that she is responsible to pay a share of her medical expenses to her health care provider effective May 1, 2014. The appellant's share was adjusted because the agency was notified that the appellant no longer had income from employment.
- 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 verification of the appellant's RSDI income. The agency representative stated that the appellant was allowed to deduct her Medicare Part B premium. The monthly premium 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 \$725.50. The agency used a gross income amount of \$1822.90 minus the standard maintenance needs deduction of \$992.50 minus the Medicare Premium of \$104.90 equal the share amount of \$725.50.
- The agency representative stated that the appellant's share for the month of April 2014 was \$740.50. She stated that the maintenance needs allowance increased from \$977.50 to \$992.50 effective May 1, 2014.
- The appellant filed a timely request for hearing received by the agency September 24, 2014.

The appellant's Shared Living Contractor testified:

- She has to submit a Shared Living Contract from ARC Bristol County dba proAbility which states that the appellant's room and board will be paid at an equivalent of two-thirds of the appellant's standard monthly SSI benefit. This room and board payment is currently at a monthly rate of \$1116.66.
- She stated that per the contract the appellant pays \$1116.66 on a monthly basis to her personally.
- She stated that the appellant's monthly net RSDI is \$1718.00, monthly room and board is \$1116.66, monthly cell phone is \$48.00, monthly YMCA membership is

\$19.99, monthly Coventry Senior Citizens bowling is \$32.00, monthly Trudeau bowling is \$40.00.

- She stated that the appellant's monthly expenses total \$1236.66. The total does not include food, personal needs including clothing, hairdresser, etc. The appellant does not receive Food Stamp benefits.
- She stated that as her Shared Living Contractor she provides the appellant with all inclusive care including meals, personal hygiene assistance, money management, transportation and support to all appointments and activities outside of the home.
- She stated that the appellant does not presently have any out of pocket medication costs or co-pays for medical services.
- She stated that the appellant has made a one time share payment to proAbility but she cannot afford to pay proAbility in addition to her ongoing living expenses.
- The appellant ended her employment at [REDACTED] during February 2014.

FINDINGS OF FACT:

1. The agency notified the appellant by notice dated September 10, 2014 that she is required to pay a share of her medical expenses to her health care provider effective May 1, 2014.
2. The agency determined that the appellant was required to pay a share amount of \$725.50.
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 agency to review the appellant's proAbility Contract submitted at today's hearing and to respond to this record by December 29, 2014.

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 \$1822.90, 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 \$1822.90 minus \$992.50, minus \$104.90 equals \$725.50.

Subsequent to the hearing the agency submitted a response to its review of the Subcontractor Agreement to this record dated December 4, 2014. The agency response, following review of the appellant's contact with her Shared Living Contractor was that, "a credit is being given for rent expense which is the personal needs deduction of \$992.50. No other deduction can be given for room and board".

The appellant's Shared Living Contractor submitted an inventory of the appellant's ongoing living expenses at hearing. She testified that the appellant resides with her in her apartment and personally pays her \$1116.66 per month per the Subcontractor Agreement. The Subcontractor Agreement requires that the Shared Living Contractor receive two-thirds of the standard monthly SSI benefit. The Shared Living Contractor testified that she provides all inclusive care and assistance to the appellant including providing meals, personal hygiene assistance, money management, transportation and support to all appointments and activities outside of the home.

The issue that this hearing officer has jurisdiction over is the September 10, 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 of the agency September 10, 2014. 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 Medicaid Waiver services and she would have entered into a case plan agreement with her case manager at the time of her eligibility determination. The plan would have determined any income balance to be allocated toward the cost of the appellant's home-based care. 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 and signed the plan.

The appellant's representative has testified and itemized the appellant's ongoing community living costs, including monthly costs for cell phone, food, clothing, personal needs supplies, and recreation etc., which total \$1236.66 including the monthly contracted \$1116.66 amount.

Review of agency policy 0396.15.05 determines that the Maintenance Needs Allowance is \$992.50. This amount is in lieu of the Personal Needs Deduction and the Home Maintenance Deduction available to other institutionalized (non-waiver) individuals. The agency allowed the appellant to deduct the Maintenance Needs Allowance and her Medical Insurance Premium from her monthly gross RSDI income in calculating her share of medical expenses due monthly to her health care provider.

It is not clear to this hearing officer to whom the appellant is responsible to pay the \$725.50 share amount. The appellant has submitted documentation of a contract that requires her to pay a monthly Shared Living Contractor room and board of

\$1116.66. However the contract also requires that the Shared Living Contractor provide the following services/supports:

"It is mutually agreed as follows:

- The Contractor will provide the following services/supports to the appellant:
- Nutritionally balanced, appetizing meals.
- Any assistance necessary to maintain good personal hygiene.
- Any assistance necessary for the selection purchases and appropriate use of personal clothing and accessories.
- Assistance with money management as described under the Funds Agreement and agrees to provide the Agency with receipts for all expenses over \$10.00.
- Encourage the individual to have visitors both in and out of the home and assist as needed in developing and maintaining community relationships.
- Support the individual's involvement with their natural family and encourage the individual's family to take part in activities at Contractors home as is appropriate.
- Any assistance necessary to succeed in his or her school, day services, social activities and employment.
- Involve the individual into daily routines and activities of family life.
- Ensure the provision of a 24 hour support unless otherwise specified in the individual's support plan.
- Use their own vehicle to transport the participant to medical, recreational and other necessary trips.

The agency response to the Shared Living Contractor Service Agreement is that the appellant is allowed an income deduction for rent expenses which is the Personal Needs Deduction of \$992.50. The agency submits that no other deduction can be given for room and board.

Agency policy 0396.15.10.05, Calculation of Income Allocation" states, "From the full gross income of a single individual the following amounts are deducted in order:

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

The issue under appeal at hearing is the agency notice dated September 10, 2014. As cited above the agency calculation of the balance of income remaining after the above expenses were deducted and allocated towards the cost of home-based services was determined correctly.

The Department of Behavioral Health, Developmental Disabilities and Hospitals, BHDDH, formerly known as MHRH, in conjunction with the Department of Human Services has offered a program to provide home and community-based services to mentally retarded individuals who would normally receive such services in an Intermediate Care Facility for

the Mentally Retarded (ICF/MR). The program the appellant currently receive services through is known informally as the MR Waiver Program.

Per agency policy 0398.10.15.15 "MHRH Responsibility, Unlike the Long Term Care Alternative Waiver Program for the Elderly and Disabled described in Section 0398.05, the case management function rests with staff in DOR/DD. The DOR/DD case management responsibilities include:

- o Identifying potential Waiver services recipients;
- o Determining need for ICF/MR level of care;
- o Ascertaining the status of MA Categorically Needy or Medically Needy eligibility;
- o Evaluating the cost effectiveness of Waiver Services;
- o Ascertaining the amount of income to be applied to the cost of Waiver services;
- o Coordinating home-based services.

The appellant is advised to review the terms of the proAbility contract with her DOR/DD (BHDDH) case manager as well as with the ARC Bristol County as this hearing officer has no jurisdiction regarding the proAbility contract submitted at hearing.

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 as calculated by the September 10, 2014 agency notice is correct. The appellant's request for relief is denied.

APPEAL RIGHTS (see page 8)


Michael Gorman
Hearing Officer

APPENDIX

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 (\$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

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.

0398.10.15.15 Redetermination of Elig

REV:06/1994

The LTC/AS Unit conducts redeterminations of eligibility in the normal manner each year, unless a change is anticipated sooner.

The individual and Case Manager at MHRH are notified of any changes in eligibility status or allocation of income.

MHRH Responsibility

REV: 11/1994

Unlike the Long Term Care Alternatives Waiver Program for the Elderly and Disabled described in Section 0398.05, the case management function rests with staff in DOR/DD.

The case management function does not include determination of Medical Assistance eligibility or allocation of income.

The DOR/DD case management responsibilities include:

- Identifying potential Waiver services recipients;
- Determining need for ICF/MR level of care;
- Ascertaining the status of MA Categorically Needy or Medically Needy eligibility;
- Evaluating the cost-effectiveness of Waiver services;
- Ascertaining amount of income to be applied to cost of Waiver services;
- Coordinating home-based services.

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.