STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF HUMAN SERVICES
APPEALS OFFICE
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Docket # 14-2186
Hearing Date: January 20, 2015

Date: February 25, 2015

RING 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, 0396.15.10.15, 0398.10, 0398.10.15.10

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: Cheryl Lafazia, Joyce Montecalvo, Thomas Conlon, and the Policy Unit.

Present at the hearing were: you and your mother. **A representative from the agency was not present at the hearing.**

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 appellant's mother testified:

- She stated that the household basically divides the bills three ways. She stated that the real estate taxes are $500.00 quarterly, the mortgage is $500.00 per month, a home equity loan is $102.00 per month, the electric bill is $150.00 per month, phone bill is $80.00 per month, and cable bill is $150.00 per month.
- She stated that her son has a special diet, which costs extra. She stated that the family has paid for special railings in the shower and also for a wheelchair ramp for access from the outside.
- She stated that she and her husband qualify for Food Stamps but her son does not. The family maintains one vehicle for transporting her son to the Olean Center and for medical trips.
- She submits that it is her contention that her son has more expenses than usual for a single individual's household. The household's expenditures exceed the household income at this time.
- She stated that she is self-employed and her income varies from week to week. Her husband is retired and his only income is from Social Security.
- She stated that the household has no money for emergencies and if there is an emergency the household must borrow from friends or relatives.
- She stated that her son needs to attend the Olean Center but if there is a choice to be made between the provider payment and staying at home he will have to stay home.

FINDINGS OF FACT:

1. The agency submitted with the hearing request a copy of the appellant's LTC Share Calculation. The calculation indicates that the appellant's monthly share was determined to be $310.50.

2. The agency allows certain deductions to be made from a recipient's gross income in calculating the amount due the health care provider.

3. This record of hearing was held open for 30 days to allow the appellant's mother 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 MR 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 $1407.90, 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 $1407.90 minus $992.50, minus $104.90 equals $310.50.

The appellant's representative submitted testimony 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 agency determination that the appellant is responsible to pay a share of his medical cost to his health care provider such as a nursing home or homemaker agency. Review of the 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 November 2014 share calculation.

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 MR Waiver program 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'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 $65.00.

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 $65.00.

ACTION FOR THE AGENCY:
The agency is to allow a monthly $65.00 medical/remedial deduction from the appellant's share to his provider effective November 1, 2014.

APPEAL RIGHTS (see last page)

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 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:

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

- 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 0396.15 process.

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:

- 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.`

- 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.

- Medical Insurance Premiums
  This deduction is insurance premiums paid by the individual, such as Medicare, SMI, and medigap policies
  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.

- 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:

- Maintenance Needs Allowance
- Medical Insurance Premiums
- 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.

HOME-BASED FOR MENTAL RETARDED 0398.10
REV: 06/1994

Since July, 1983, the Department of Human Services (DHS), in conjunction with the Department of Mental Health, Retardation and Hospitals (MHRH), 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 is operated under a Waiver approved by the Health Care Financing Administration of the U.S. Department of Health and Human Services. The Waiver allows the program to deviate from certain MA rules pertaining to eligibility determination and services provided to eligible recipients. This program supplements the existing scope of services already provided under Medical Assistance (MA) and by other programs and service providers. The program has become informally known as the MR Waiver Program. HOME-BASED FOR MENTAL RETARDED 0398.10

The goals of the program are:

- To reduce and prevent unnecessary institutionalization by providing home and community-based services to eligible mentally retarded MA recipients; and,

- To provide the services at a cost less or equal to the cost of institutionalization.

Inc Alloc, Non-SSI Recip 0398.10.15.10
REV: 06/1994

Neither the SSI payment itself nor any of the other income of an SSI recipient (or former SSI recipients determined eligible for Categorically Needy Medical Assistance by SSA under 1619(B)) is allocated to the cost of Waiver services. For others, once eligibility is determined, the individual's income is reviewed to determine the monthly amount (if any) that s/he must pay toward the cost of special Waiver services.

Staff of the LTC/AS Unit utilize the CP-30 to inform the Case Manager at MHRH and the Business Manager of the Division of Medical Services of the recipient's monthly income allocated to the cost of Waiver services. LTC/AS staff used the CP-31 to notify the recipient (in care of the DOR/DD Case Manager) of the amount allocated to the cost of 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.