

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF HUMAN SERVICES
APPEALS OFFICE
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Docket # 15-145
Hearing Date: March 3, 2015

Date: March 20, 2015



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

SECTION: 0392.05 OVERVIEW

SECTION: 0392.10 INCOME FOR POST ELIGIBILITY PURPOSES

SECTION: 0392.15 INCOME APPLIED

SECTION: 0392.15.45 ALLOCATION FOR HOME MAINTENANCE

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: Marylou Mccaffrey, Tom Conlon, and the Policy Unit.

Present at the hearing were: your daughter, and Marylou Mccaffrey (agency representative).

ISSUE: What is the appellant's monthly share amount due the nursing facility?

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 August 5, 2014 that she is responsible to pay a share (applied income) of her medical expenses at the nursing facility effective May 1, 2014.
- The agency representative stated that the appellant had been active as a community core waiver recipient until April 29, 2014 when she was admitted to a nursing facility. The appellant was determined eligible for LTC/MA effective May 1, 2014 with her applied income due beginning May 1, 2014.
- The agency representative stated that the applied income is determined using the appellant's monthly gross income minus certain allowable deductions.
- The agency representative stated that the agency notice dated August 5, 2014 indicated that the appellant is responsible to pay a share of her medical expenses to the nursing facility for the months of May 2014 and June 2014.
- Per agency policy the allowable deductions are subtracted from the appellant's gross. The appellant has monthly gross income consisting of RSDI \$909.00. She has allowable monthly deductions that include the personal needs deduction (standard \$50.00), no medical insurance premium deduction, and a home maintenance deduction \$189.70, for a patient's share amount of \$669.30 effective May 1, 2014.
- The agency representative stated that the agency notified the appellant by notice dated August 6, 2014 that her share of medical expenses for the month of August 2014 was \$0.00 because the appellant returned to the community in August 2014.
- The agency notified the appellant by notice dated September 26, 2014 that effective September 1, 2014 she was responsible to pay her share of \$669.30 to the nursing facility as she returned there on August 14, 2014.(copies of the above notices submitted).
- The agency representative stated that the home maintenance deduction costs were allowed to be deducted because the appellant's physician signed on the physician's evaluation form that the appellant would be returning home within 6 months. (Copy of the physician's form submitted).
- The agency representative submitted copies of verification of the appellant's income.

The agency representative submitted a copy of the calculation used by the agency in determining the appellant's applied income to be \$669.30 for the months of May 2014, June 2014 and September 2014.

The appellant's daughter testified:

She stated that at the end of November 2014 the family was informed by the business office at the nursing facility that her mother owed a monthly share of \$669.30 for May 2014, June 2014 and September 2014.

She stated that during May 2014 and June 2014 her mother was admitted to the nursing facility's second floor Rehab. Unit. She received intensive rehabilitation 4-5 days per week at that time. The family met with the physical therapy staff and the social worker every two weeks to discuss her mother's progress.

She stated that there was never any discussion other than the rehabilitation plan and the plan for her mother to return home. During this time the family was never informed that her mother's rehabilitation stay would require a patient share.

She stated that up until November 2014 the family was not aware of the share requirement. Her mother's Social Security check was used to pay her house expenses which equal the monthly share amount therefore she had no money to pay for the share to the nursing facility.

She stated that there was no reason for the family to believe that there was a share since her mother was on a rehab. floor and received rehab. therapy during those months.

She stated that her mother returned home during July 2014 and then was readmitted during August 2014. The readmission was again indicated to be for a rehab. stay. It was not until October of 2014 that the nursing facility Social Worker told the family that her mother was going to be changed from rehab. status to resident status as of October 1, 2014.

She stated that her mother has no money to pay for the shares requested by the nursing facility and she should not be held liable for the share payments because: 1. She was not informed by the nursing home or any other source about the share obligation until November 2014, 2. Her mother was always informed that she was in rehab. And not a resident until October 1, 2014, 3. There are no funds of any kind available to pay, 4. She should not be evicted if the share is not paid, 5. Her mother was never informed about the share by the nursing facility or anyone else.

FINDINGS OF FACT:

1. The agency notified the appellant by notice dated August 5, 2014 that she is required to pay a share of her medical costs to the nursing facility effective May 1, 2014.
2. The agency determined that the appellant was required to pay an applied income to the facility of \$669.30.
3. The agency notified the appellant by notice dated August 6, 2014 that her share of medical expenses for the months of July 2014 and August 2014 was \$0.00 because she returned to the community during those months.
4. The agency notified the appellant by notice dated September 26, 2014 that effective September 1, 2014 she was responsible to pay her share of \$669.30 to the nursing facility as she was readmitted there on August 14, 2014.
5. The agency allowed the appellant a Home Maintenance deduction for the first six months of her nursing home stay.
6. The appellant's representative submits that her mother was in rehab. during the months of May 2014, June 2014 and September 2014. There was no mention of a share due for those months from the facility until November 2014.
7. This record of hearing was held open through March 18, 2015 to allow the appellant's representative to submit additional evidence.

CONCLUSION:

The issue to be decided is whether the appellant's applied income (share) as determined by the agency is correct. The Medical Assistance payment to the institution is reduced by the required applied income amount. Review of the required applied income amount policy for an individual without a spouse in the community determines the following: The calculation of applied income starts with the individual's gross income, in this case the agency determined that amount is \$909.00, minus the following: 1. Personal Needs Deduction \$50.00(standard), 2. Medical Insurance Premiums \$0.00, Home Maintenance Deduction \$189.70.

The appellant's gross minus \$50.00, minus the Home Maintenance Deduction of \$189.70.

\$909.00	Appellant's gross.
-\$50.00	Personal Needs
-\$189.70	Home Maintenance Deduction
-\$0.00	Medical Premiums
= \$669.30	Applied Income

Review of the agency record and testimony determines that the agency followed agency policy which allows an institutionalized individual who is likely to return home within six months, as certified by a physician, to allocate from the applied income an amount for maintenance of the home

The appellant's representative submits that the agency applied income determination is not correct because the appellant was in a rehab. unit during the months of May 2014, June 2014, and September 2014.

The representative stated that the appellant does not have access to any of the Social Security share income as that income was used to pay the appellant's shelter costs during those months.

Review of the appellant's monthly shelter costs that were submitted to this record by the appellant's representative determines that the allowable Home Maintenance Deduction was correctly calculated by the agency as indicated in the agency August 2014 and September 2014 notices.

Regarding the rehab. status of the appellant during May 2014, June 2014 and September 2014. A letter dated March 5, 2015 from Cherry Hill Manor and submitted to this record by the appellant's daughter was reviewed. The letter indicates that the nursing facility determined the appellant to be "non-skilled" for the months of May 2014, June 2014, and September 2014. The letter indicates the payment source to be "Medicaid".

Based on review of the available evidence it is determined that the appellant is required to pay the share amount calculated by the agency for the Medicaid/LTC coverage provided to her while she was a resident at the nursing facility during the months of May 2014, June 2014, and September 2014.

This hearing officer has no jurisdiction regarding the apparent nursing facility and/or Medicare determination that the appellant was "non-skilled" during the months under review.

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 applied income is determined to be \$669.30. The appellant's request for relief is denied.

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.

INCOME FOR POST-ELIG PURPOSES

0392.10

REV: 03/1995

There are differences between the definition of income for determining MA financial eligibility and the definition of income for post-eligibility purposes. In the post-eligibility process, income means all income that is defined to be part of the client's gross income when determining financial eligibility. The income disregards which were excluded in the eligibility

determination process are added back as countable income in the post-eligibility process.

Generally, certain types of income that are paid to a client for medical or social services and are excluded in determining financial eligibility are counted as income in the post-eligibility process. However, Aid and Attendance (A&A) benefits or benefits for unusual medical expenses (UME) paid by the VA, are excluded in determining financial eligibility and are also
INCOME FOR POST-ELIG PURPOSES 0392.10
excluded as income in the post-eligibility process.

Likewise, SSI benefits are not considered to be income in the MA eligibility process and are "invisible" (not countable) in the post-eligibility treatment of income as well.

INCOME APPLIED TO COST OF CARE 0392.15
REV: 06/1994

For each month in which Medical Assistance is requested to pay for the individual's institutional care, the individual must contribute his/her income to pay for institutional services, deducting only certain allowable amounts. The individual's income remaining after allowable deductions is paid to the institution as his/her contribution to the cost of the institutional care. Such income is known as APPLIED INCOME. The Medical Assistance payment to the institution is reduced by the applied income amount.

The calculation of applied income starts with the individual's gross income, which includes the deduction and disregard amounts which were subtracted from gross income in the determination of eligibility. To determine applied income, certain allowable deductions are subtracted from the recipient's gross income. The deductions, and the order in which they are subtracted from the INCOME APPLIED TO COST OF CARE 0392.15 recipient's gross income are:

- o Personal Needs Deduction (Regular) or \$90 Reduced Pension Deduction;
- o Personal Needs Deduction (Expanded);
- o Personal Needs Deduction (Guardian and Legal);
- o Community Spouse Allowance;
- o Community Dependent Allowance;

- o Medical Insurance Premiums;
- Medical/Remedial Items;
- INCOME APPLIED TO COST OF CARE 0392.15
- o Home Maintenance Deduction;

- o First/Last Month Institutionalization Expenses.

Allocation for Home Maintenance 0392.15.45
REV: 07/1999

If the institutionalized individual has no spouse living at home, and a physician has certified that s/he is likely to return home within six months, an amount can be allocated for the maintenance of the home. This deduction cannot exceed the Medically Needy Income Limit for one, nor can the amount be allocated for more than six months in any continuous period of institutionalization.

An institutionalized individual may not allocate income for both HOME maintenance and for the support of dependents at home.

The dollar amount per month that the individual is allowed to pay for expenses of the home are identified on the InRHODES system STATEMENT OF NEED/ HOME, RENT, and UTIL panels.

Expenses that can be deducted from the income are: Allocation for Home Maintenance
0392.15.45

- o Rent or mortgage;
- o Taxes;
- o Insurance;
- o Special assessments and water bill.

THE MONTHLY TOTAL ALLOCATED CAN NOT EXCEED THE MONTHLY MEDICALLY NEEDY INCOME LIMIT FOR AN INDIVIDUAL. (See Section 0386.05)

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.