

BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS
STATE OF GEORGIA

[REDACTED]
Petitioner,

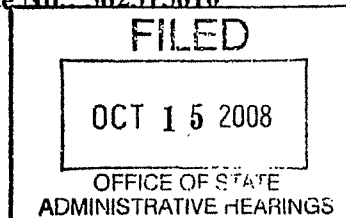
v.

DIVISION OF FAMILY AND
CHILDREN SERVICES, DEPARTMENT
OF HUMAN RESOURCES,
Respondent.

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Docket No.:
OSAH-DFCS-NH-0904396-29-Miller

Agency Reference No.: 562315610



INITIAL DECISION

I. Introduction

Petitioner requested a hearing in response to Respondent's action denying her application for Nursing Home Medicaid for the months July 2007 through May 2008. A hearing was held on September 15, 2008. The Petitioner was represented by William Sotter, Esq., and her appearance was waived. [REDACTED], Medicaid Supervisor for the Clarke County Department of Family and Children Services, appeared as the Respondent's representative. For the reasons set forth below, the Respondent's action is **AFFIRMED**.

II. Findings of Fact

1.

The Petitioner is a resident of the Heritage Healthcare of Athens nursing home, and she has lived there since July 2007, when she was discharged directly from Athens Regional Medical Center to the nursing home. The Petitioner has been diagnosed with Alzheimer's disease, hypertension, and osteoporosis, and she lacks competence to manage her own affairs. (Testimony of [REDACTED]; Exhibit P-1.)

2.

When Petitioner entered the nursing home, she was not a recipient of benefits under the Medicaid program. However, the nursing home provided care with the expectation that the Petitioner would apply for Nursing Home Medicaid and the costs of her care would be reimbursed under the Medicaid program. (Testimony of [REDACTED]; Exhibit P-1.)

3.

The Petitioner's cousin, [REDACTED], attempted to assist her with her first application for Nursing Home Medicaid, which was filed on August 6, 2007. This application was denied

because required information was not included with the application. [REDACTED] was unable to obtain the required information because he did not have power of attorney over the Petitioner's affairs. (Testimony of [REDACTED]; Exhibit P-1.)

4.

Staff at the nursing home helped [REDACTED] secure legal assistance regarding the Petitioner's Medicaid application, and a second application was submitted on November 2, 2007. The second application included all required information. However, the application was denied on January 14, 2008, based on the Respondent's determination that the Petitioner's resources exceeded the applicable limit of \$2,000.00. (Testimony of [REDACTED]; Exhibit P-1.)

5.

In February 2008, [REDACTED] was appointed as the Petitioner's conservator. At that time, [REDACTED] was able to gain control of the Petitioner's assets. (Testimony of [REDACTED]; Exhibit P-1.)

6.

The Petitioner submitted a third Medicaid application on May 19, 2008. This application was approved on July 22, 2008, for the month of June 2008 and ongoing. However, it was denied for the months of July 2007 to May 2008, based on the Respondent's determination that the Petitioner's resources had exceeded the resource limit during those months. Testimony of [REDACTED].

7.

In reviewing the Petitioner's financial information, the Respondent determined that the Petitioner's resources included a certificate of deposit taken out on November 8, 2006, in the amount of \$17,000.00, and which was cashed in on February 29, 2008, for \$18,183.02. The Respondent denied the Petitioner's application for the months of November 2007 through February 2008 based on the certificate of deposit. (Testimony of [REDACTED]; Exhibit R-3.)

8.

The Respondent further determined that as of March 1, 2008, the Petitioner had resources of \$23,453.89 in a checking account. As of April 1, 2008, following the Petitioner's purchase of a \$10,000.00 certificate of deposit to cover burial expenses, the account was valued at \$11,834.54. As of May 1, 2008, the account was valued at \$1,800.00, and her resources also included the cash value of her two life insurance policies, which totaled \$472.58. As of June 1, 2008, the balance of the Petitioner's checking account was \$1,467.79. (Testimony of [REDACTED]; Exhibits R-4, R-5, R-7.)

9.

The nursing home's private pay rate is approximately \$6,500.00 per month. The Petitioner currently owes over \$60,000.00 to the nursing home, which she does not have the ability to pay. (Testimony of [REDACTED] Exhibit P-1.)

III. Conclusions of Law

1.

Because this matter involves the denial of the Petitioner's application for Medicaid assistance, Petitioner bears the burden of proof. GA. COMP. R. & REGS. § 616-1-2-.07(1)(d) [cited hereinafter as "OSAH Rule 7(1)(d)"]. The standard of proof is a preponderance of the evidence. OSAH Rule 21(4).

2.

In determining an applicant's eligibility for Medicaid, the eligibility caseworker must determine the applicant's eligibility based on his or her countable resources at the beginning of each month for which the applicant seeks benefits. Pursuant to Respondent's policy manual,

If the total countable value of an A/R's resources, as of the first moment of the first day of the month, exceeds the resource limit, the A/R is *ineligible* based on resources for the entire month, regardless of fluctuations during the month.

If the total countable value of an A/R's resources, as of the first moment of the first day of the month, does *not* exceed the resource limit, the A/R is eligible for the entire month, regardless of fluctuations during the month.

Economic Support Services Manual of the Georgia Department of Human Resources ("ESSM"), Vol. II/MA, MT 1 - 01/02, § 2303-1 (emphasis in original) (Exhibit R-1).

3.

In order to be eligible for Nursing Home Medicaid, an applicant's countable resources cannot exceed \$2,000.00 in any given month. In this case, the Petitioner's countable resources exceeded the \$2,000.00 limit for the months of July 2007 through May 2008. ESSM, Appendix A1, § A1-1 (2008) (Exhibit R-2).

4.

The Respondent correctly determined that the Petitioner was not eligible for Nursing Home Medicaid for the months of July 2007 through May 2008.

IV. Decision

In accordance with the foregoing Findings of Fact and Conclusions of Law, the decision of the Respondent to deny the Petitioner's application for Nursing Home Medicaid is hereby **AFFIRMED**.

SO ORDERED, this 15th day of October, 2008.



KRISTIN L. MILLER
Administrative Law Judge