

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

IN THE MATTER OF:

[REDACTED]

MAHS Reg. No.: 15-018180
Issue No.: 2001
Agency Case No.: [REDACTED]
Hearing Date: December 9, 2015
County: Wayne (17)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned administrative law judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on December 9, 2015, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], specialist.

ISSUE

The issue is whether MDHHS properly determined Petitioner's Medical Assistance (MA) eligibility.

FINDINGS OF FACT

The administrative law judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner was an ongoing Medicaid recipient.
2. Petitioner's income was [REDACTED] in gross Retirement, Survivors, Disability Insurance (RSDI).
3. On an unspecified date, MDHHS determined Petitioner was eligible for Medicaid, effective September 2015, subject to a [REDACTED] deductible.
4. On September 15, 2015, Petitioner requested a hearing to dispute the determination of MA eligibility.

CONCLUSIONS OF LAW

Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. MDHHS (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute a determination of MA that she was eligible for Medicaid subject to a [REDACTED] deductible. The analysis will examine the MA budget process.

It was not disputed that Petitioner was disabled and/or aged. As a disabled and/or aged individual, Petitioner is potentially eligible to receive Medicaid through AD-Care. BEM 163 outlines the procedures for determining AD-Care eligibility.

[For all programs,] Bridges counts the gross benefit amount as unearned income. BEM 503 (July 2015), p. 28. Some exceptions to counting the gross benefit amount exist (e.g. Medicare premium refunds, returned benefits (see BEM 500), fees paid to qualified organizations acting as a payee...), though none are applicable in the present case. Gross amount means the amount of RSDI before any deduction such as Medicare. BEM 163 (July 2013), p. 2.

Petitioner testified her gross RSDI was [REDACTED]; Petitioner did not present supporting evidence. MDHHS budgeted Petitioner received [REDACTED] in gross RSDI. MDHHS presented a SOLQ (Exhibits 1-3) which is understood to be a document obtained from a data exchange with the Social Security Administration. The SOLQ listed Petitioner's gross benefit monthly RSDI amount to be [REDACTED]. Based on the presented evidence, it is found that Petitioner's gross RSDI income is [REDACTED].

Petitioner's testimony indicated her monthly RSDI benefit is reduced for payment of health insurance. Petitioner's testimony does not affect the fact that her gross RSDI benefit is \$ [REDACTED].

For purposes of AD-Care eligibility, MDHHS allows a [REDACTED] income disregard. Petitioner's net unearned income, for purposes of AD-Care eligibility is found to be [REDACTED].

MDHHS gives budget credits for employment income, guardianship/conservator expenses and cost of living adjustments (COLA) (for January through March only). Petitioner did not allege to have any countable expenses.

Income eligibility exists when net income does not exceed the income limit in RFT 242. *Id.* RFT 242 lists an income limit of [REDACTED] for a 1-person MA group. At first glance, Petitioner would appear to be eligible for AD-Care as her net income falls below the income limit listed in RFT 242. MDHHS policy includes the following statement with the table, "Income limits are 100 percent of the Federal Poverty Level (FPL) + [REDACTED] disregard." This statement could be interpreted as a mere explanation for how MDHHS arrived at an income limit of [REDACTED]; such an interpretation would justify interpreting the net income limit to be \$ [REDACTED]. An alternative interpretation would be that the statement is there to advise the reader that the listed amount of \$ [REDACTED] is the income limit before a [REDACTED] budget disregard is applied. MDHHS adopted the latter interpretation as their budget (see Exhibit 4) listed a net income limit of [REDACTED].

It is exorbitantly tempting to interpret the vague explanation listed in RFT 242 against MDHHS. MDHHS saved themselves by clarifying the AD-Care income limit within their policy. Net income [for AD-Care] cannot exceed 100% of the poverty level. BEM 163 (July 2013), p. 1.

The current federal poverty limit is [REDACTED]; this amount breaks down to a monthly average of [REDACTED] and is found to be the income limit for AD-Care. Petitioner's net income is slightly higher than the net income limit. Accordingly, it is found that MDHHS properly denied Petitioner's AD-Care eligibility.

Petitioner may still receive MA benefits subject to a monthly deductible through the G2S program. Clients with a deductible may receive Medicaid if sufficient allowable medical expenses are incurred. Each calendar month is a separate deductible period. The fiscal group's monthly excess income is called the deductible amount. Meeting a deductible means reporting and verifying allowable medical expenses that equal or exceed the deductible amount for the calendar month. BEM 545 (October 2014), p. 11. The client must report medical expenses by the last day of the third month following the month in which the group wants MA coverage. *Id.*

The G2S budget allows a [REDACTED] disregard for unearned income and various earned income disregards. The G2S budget also factors ongoing medical expenses (which are applied toward a deductible), insurance premiums, and remedial services. Petitioner alleged she paid [REDACTED] in insurance costs, though the amount was neither verified nor alleged to have been previously reported to MDHHS. For purposes of this decision, it will be found that Petitioner did not report the insurance cost.

The deductible is calculated by subtracting the protected income level (PIL) from the MA net income. A PIL is a standard allowance for non-medical need items such as shelter, food and incidental expenses. The PIL for Petitioner's shelter area and group size is [REDACTED] RFT 240 (December 2013), p. 1.

Subtracting the PIL, [REDACTED] disregard, and insurance premium from Petitioner's group's income results in a monthly deductible of [REDACTED], the same amount calculated by MDHHS (see Exhibit 5). It is found that MDHHS properly determined Petitioner's MA eligibility.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly determined Petitioner's MA eligibility, effective September 2015. The actions taken by MDHHS are **AFFIRMED**.



Christian Gardocki

Administrative Law Judge
for Nick Lyon, Director

Department of Health and Human Services

Date Signed: **12/14/2015**

Date Mailed: **12/14/2015**

CG/tm

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date. A copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from MAHS within 30 days of the mailing date of this Hearing Decision, or MAHS **MAY** order a rehearing or reconsideration on its own motion. MAHS **MAY** grant a party's Request for Rehearing or Reconsideration when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The party requesting a rehearing or reconsideration must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

cc:

