



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
Christopher Seppanen  
Executive Director

MIKE ZIMMER  
DIRECTOR

[REDACTED]

Date Mailed: April 19, 2016  
MAHS Docket No.: 16-001002  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**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, an in-person hearing was held on April 11, 2016, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED] facilitator, and [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 received monthly income of \$1,053/month in RSDI.
3. Petitioner's spouse received \$699.36 in monthly veteran benefits.
4. On [REDACTED] MDHHS determined Petitioner was eligible for Medicaid subject to a \$619 monthly deductible, effective December 2015.
5. On an unspecified date, MDHHS determined Petitioner to be eligible for Medicaid subject to a \$782 monthly deductible.

6. On [REDACTED], Petitioner requested a hearing to dispute the termination of Medicaid and a termination of Food Assistance Program (FAP) benefits.

### **CONCLUSIONS OF LAW**

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. MDHHS (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner's hearing request, in part, alleged a dispute of FAP benefits. Initial Petitioner testimony disputed a termination of FAP benefits, effective December 2015. Later Petitioner testimony conceded her FAP eligibility may have ended beginning January 2016. MDHHS testimony indicated Petitioner's FAP eligibility ended due to an alleged Petitioner failure to return redetermination documents.

Petitioner testified she was more concerned about MA eligibility than FAP eligibility. Petitioner subsequently stated that she did not wish to dispute her FAP eligibility at all. Based on Petitioner's verbal withdrawal of her FAP dispute, Petitioner's hearing request will be partially dismissed.

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's hearing request indicated a MA dispute of the amount of benefits. Petitioner testified she was eligible for Medicaid before MDHHS determined she was eligible for Medicaid subject to a \$619/month deductible. MDHHS subsequently increased the deductible to \$782/month; the increased deductible will be the subject matter of this hearing decision.

It was not disputed that Petitioner was disabled. As a disabled 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.

It was not disputed Petitioner's income was \$1,053.00/month. Petitioner testified her spouse received \$419.00 in monthly veteran's benefits in 2015. The amount soon increased to \$699.36 (presumably resulting in an increased deductible). Accepting Petitioner's testimony as correct results in a total gross income of \$1,472.00.

For purposes of AD-Care eligibility, MDHHS allows a \$20 unearned income disregard. Petitioner's net unearned income, for purposes of AD-Care eligibility is found to be \$1,452.00

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 \$1,367.50 (pre-unearned income deduction) for a 2-person AD-Care group (Petitioner was married). It should be noted that minor children are not factored in AD-Care determinations (see BEM 211). Petitioner's group's income exceeds AD-Care income limits. It is found MDHHS properly did not issue AD-Care benefits to Petitioner.

Petitioner may still receive MA benefits subject to a monthly deductible through a Group 2 Medicaid 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.*

Petitioner is theoretically eligible for Group 2-Caretaker (G2C) MA or Group 2 Spenddown (G2S) because she is a caretaker to a minor child and disabled. MDHHS only verified Petitioner's eligibility for G2C.

Petitioner properly cited MDHHS policy that she is entitled to the most beneficial MA category (see BEM 105 (January 2016), p. 2). MDHHS did not provide a G2S budget; thus, it cannot be easily determined if G2S (compared to G2C) is a more or less beneficial MA category for Petitioner. MDHHS testimony indicated their computer system automatically determines the best available MA category, however, without a supporting budget, it cannot be determined with certainty that the most beneficial program was selected. This decision will examine Petitioner's eligibility for G2S.

The G2S budget allows a \$20 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. It was questionable whether Petitioner had a \$104.90 monthly expense for Medicare; for purposes of this decision, it will be assumed Petitioner was responsible for her Part B Medicare premium.

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 \$532.00. RFT 240 (December 2013), p. 1.

Subtracting the PIL, \$20 disregard, and insurance premium from Petitioner's group's income results in a monthly deductible of \$815.00. It will now be determined whether Petitioner's G2C eligibility is more beneficial.

Income eligibility [for G2C] exists when net income does not exceed the Group 2 needs in BEM 544. BEM 135 (October 2015), p. 2. [MDHHS is to] apply the Medicaid policies in BEM 500, 530 and 536 to determine net income. *Id.*

The G2C net income calculation starts with determining Petitioner's pro-rated income. This is calculated by dividing Petitioner's income (\$1053) by a pro-rated divisor. The pro-rated divisor is the sum of 2.9 and the number of dependents (one dependent child and a spouse). Petitioner's pro-rated income is \$214 (dropping cents). Petitioner's spouse's income of \$699 is also divided by 4.9 to determine his prorated income (\$142).

Petitioner's pro-rated income is multiplied by 2.9 to determine her share of her own income (\$620). Petitioner's spouse's income is multiplied by 3.9 to determine the spouse's share of the spouse's own income (\$553). Each spouse's share of their income (\$620 + \$553) is added with the couple's share of each other's income (which is also Petitioner's pro-rated income of \$262) to determine the total net income. The total running net income is \$1387.

Deductions are given for insurance premiums, remedial services and ongoing medical expenses. MDHHS factored a Medicare premium cost of \$104.90; this is subtracted from the total income to determine the net income (\$1282.10). The income limit for G2C eligibility is \$500 (see RFT 240 (December 2013), p. 1). The amount that Petitioner's net income exceeds the income limit is the amount of deductible. Petitioner's deductible is calculated to be \$782, the same amount as calculated by MDHHS.

Petitioner reasonably queried how her spouse could be eligible for Medicaid, yet she was not eligible. Presumably, Petitioner's spouse is eligible for Healthy Michigan Plan (HMP) benefits. HMP is known to have higher income limits than other Medicaid categories.

The Healthy Michigan Plan is a new health care program that will be administered by the Michigan Department of Community Health, Medical Services Administration. The program will be implemented as authorized under the Affordable Care Act of 2010 as codified under 1902(a)(10)(A)(i)(VIII) of the Social Security Act and in compliance with the Michigan Public Act 107 of 2013. HMP policies are found in the Medicaid Provider Manual and Modified Adjusted Gross Income Related Eligibility Manual (MAGI).

Persons with commercial HMO coverage, including Medicare HMO coverage, are not eligible for HMP benefits. MAGI (May 28, 2014), p. 40. Petitioner testified she had Medicare, but her spouse did not receive Medicare. Thus, Petitioner's spouse is potentially eligible to receive HMP, while Petitioner is not eligible. It is found 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 December 2015, as Medicaid subject to a \$782/month deductible. The actions taken by MDHHS are **AFFIRMED**.

CG/hw



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**Christian Gardocki**

Administrative Law Judge

for Nick Lyon, Director

Department of Health and Human Services

**NOTICE OF APPEAL:** A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

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

**DHHS**

[REDACTED]

[REDACTED]

**Petitioner**

[REDACTED]