



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: April 18, 2017
MAHS Docket No.: 17-001656
Agency No.: [REDACTED]
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Christian Gardocki
(on behalf of Michael J. Bennane)**

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 [REDACTED] from [REDACTED] Michigan. [REDACTED], Petitioner's mother and legal guardian, appeared as Petitioner's authorized hearing representative (AHR). The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], Assistance Payments Supervisor, and [REDACTED], Eligibility Specialist.

ISSUES

1. The first issue is whether MDHHS properly determined Petitioner's ongoing Medical Assistance (MA) benefits eligibility.
2. The second issue is whether MDHHS properly violated their standards of promptness in processing Petitioner's MA application.

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 recipient of Medicaid subject to a \$[REDACTED]/month deductible.
2. On [REDACTED], Petitioner submitted to MDHHS an application for MA benefits.

3. Petitioner's application was suggestive of MA eligibility through the Disabled Adult Child (DAC) category.
4. On [REDACTED], Petitioner's AHR requested a hearing to dispute her son's ongoing MA eligibility, and failure by MDHHS to evaluate her son for MA benefits as a disabled adult child.
5. As of [REDACTED], MDHHS had not completed evaluation of Petitioner's eligibility for the DAC category.

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's AHR's hearing request indicated she had "been trying to apply" for MA benefits for her son since [REDACTED]. Petitioner's AHR's hearing request also indicated an ongoing Medicaid deductible was "UNACCEPTABLE". Petitioner's AHR's testimony indicated a hearing was requested to dispute the ongoing deductible.

MDHHS testimony indicated a notice concerning MA benefits was sent to Petitioner on [REDACTED]. Presumably, this is the written notice in dispute. The notice was not presented. MDHHS testimony indicated Petitioner's ongoing eligibility was for Medicaid subject to a \$[REDACTED]/month deductible; the testimony was not disputed by Petitioner's AHR. Given presented evidence, it will be found that Petitioner is eligible for Medicaid subject to a \$[REDACTED]/month deductible.

Persons may qualify under more than one MA category. *Id.*, p. 2. Federal law gives them the right to the most beneficial category. *Id.* The most beneficial category is the one that results in eligibility, the least amount of excess income or the lowest cost share. *Id.*

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 were alleged to be applicable in the

present case. Gross amount means the amount of Retirement, Survivors and Disability Insurance (RSDI) before any deduction, such as Medicare. BEM 163 (July 2013), p. 2.

Unfortunately, presented testimony did not address Petitioner's income; and no documents were admitted as exhibits. An application in the case file was indicative that Petitioner reported an unearned income of \$ [REDACTED] /month.

MDHHS gives AD-Care budget credits for employment income, guardianship and/or conservator expenses and cost of living adjustments (COLA) (for January through March only). Petitioner did not allege any such factors were applicable.

Income eligibility for AD-Care exists when countable income does not exceed the income limit for the program. BEM 163 (October 2010), p. 1. The income limit for AD-Care for a one-person MA group is \$ [REDACTED] RFT 242 (April 2016), p. 1. It is found that MDHHS properly determined Petitioner to be ineligible for Medicaid under AD-Care.

Petitioner may still receive Medicaid 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 (July 2016), p. 11.

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. A Redetermination signed by Petitioner's AHR on [REDACTED], (not admitted as an exhibit) did not list medical insurance expenses. Hearing testimony did not address whether Petitioner had medical insurance expenses. Petitioner's AHR's testimony conceded Petitioner received Medicare Savings Program benefits; this is indicative of not having Medicare premium expenses. Based on presented evidence, it is found Petitioner has no ongoing medical insurance expenses. Evidence was not indicative that Petitioner had any other eligible expenses.

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] (see RFT 240 (December 2013), p. 1).

Subtracting the PIL and \$20 disregard from Petitioner's income results in a monthly deductible of \$ [REDACTED]. As MDHHS calculated a more favorable deductible for Petitioner, the determination of MDHHS is not found to be improper, from Petitioner's perspective.

Typically, disabled clients are not eligible for MA categories other than AD-Care. Presented evidence was suggestive that Petitioner may be potentially eligible for Medicaid as a DAC.

[DAC is] a Supplemental Security Income (SSI)-related Group 1 category. BEM 158 (October 2014), p. 1. MA is available to a person receiving disabled adult children's (DAC) (also called Childhood Disability Beneficiaries' or CDBs') RSDI benefits under Section 202(d) of the Social Security Act if he or she:

- (1) Is age 18 or older; and
- (2) Received SSI; and
- (3) Ceased to be eligible for SSI on or after July 1, 1987, because he became entitled to DAC RSDI benefits under section 202(d) of the Act or an increase in such RSDI benefits; and
- (4) Is currently receiving DAC RSDI benefits under section 202(d) of the Act; and
- (5) Would be eligible for SSI without such RSDI benefits.

Id.

MDHHS' testimony indicated that Petitioner was possibly eligible for MA benefits through DAC. MDHHS did not explain what made Petitioner potentially eligible for Medicaid through DAC. MDHHS testimony indicated the possibility of DAC coverage was discovered through Petitioner's application for MA benefits dated [REDACTED]. MDHHS testimony further indicated that Petitioner's eligibility through DAC was being evaluated and that a decision would be made at some unspecified future date.

Petitioner's AHR hearing request and testimony implied a concern about the delay in evaluating Petitioner's eligibility for MA benefits through DAC. Determining MDHHS' processing requirements is a somewhat convoluted process.

Petitioner was an ongoing MA recipient seeking a change in MA eligibility. The circumstances are suggestive that MDHHS is bound by standard of promptness in processing changes. Technically, Petitioner's potential status as a DAC would be a change in outcome, but evidence was not indicative of a change in Petitioner's circumstances. Thus, the standard of promptness for processing changes is not applicable.

The evaluation of DAC was partially based on Petitioner's application. The circumstances are suggestive in applying application processing timeframes. Technically, Petitioner's application was superfluous as Petitioner was already an ongoing MA recipient. Petitioner did not need to apply for status as a DAC. Thus, standards of promptness for processing applications is not technically applicable; functionally, application processing timeframes are applicable. Generally, DAC is evaluated at application. Thus, application timeframes will be imposed.

It should be noted that circumstances were suggestive that MDHHS should have evaluated Petitioner for DAC status whenever Petitioner originally applied for MA benefits. Hearing timeframe restrictions (see BAM 600) preclude Petitioner from disputing actions more than 90 days before the hearing request date. For purposes of this decision, Petitioner's hearing request will be interpreted as a dispute concerning the delay in processing Petitioner's application dated [REDACTED].

MDHHS has certain timeframes in which applications should be processed; the timeframes are referred to as standards of promptness. [For MA benefits, MDHHS is to certify program approval or denial of the application within 45 days. BAM 115 October 2016), p. 15. [The standard of promptness is] 90 days for MA categories in which disability is an eligibility factor. *Id.*

It should be noted that the 90-day timeframe is not applicable because “disability” is interpreted to refer to cases when MDHHS must determine whether a client is disabled. The 90-day timeframe is not intended for determinations of whether an undisputedly disabled individual is eligible for status as a DAC.

Petitioner’s AHR requested a hearing on [REDACTED]. As of [REDACTED], MDHHS had more than 45 days to determine Petitioner’s DAC status. The failure to complete processing was a violation of MDHHS policy. As of the hearing date, more than 90 day had passed and MDHHS has still not determined Petitioner’s DAC eligibility. MDHHS will be ordered to comply with their application standards of promptness in determining Petitioner’s status as a DAC.

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 eligibility for AD-Care as a recipient of Medicaid subject to a \$ [REDACTED]/month deductible. The actions taken by MDHHS are **PARTIALLY AFFIRMED**.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that MDHHS failed to comply with their standard of promptness in determining Petitioner’s DAC eligibility. It is ordered that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

1. Complete Petitioner’s evaluation as a DAC; and
2. Initiate processing of other MA eligibility factors as required by MDHHS policy.

The actions taken by MDHHS are **PARTIALLY REVERSED**.

CG/jaf



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]

Authorized Hearing Rep.

[REDACTED]

Petitioner

[REDACTED]

[REDACTED]