



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON  
DIRECTOR

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Date Mailed: June 14, 2018  
MAHS Docket No.: 18-003859  
Agency No.: ██████████  
Petitioner: ██████████

**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; 42 CFR 438.400 to 438.424; 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 June 13, 2018, from Detroit, Michigan. Petitioner appeared and was represented by Wafa Haddad of Noor's Heaven of West Michigan Services. ██████████  
██████████ Petitioner's daughter, testified on behalf of Petitioner and also participated as a ██████████ language translator. The Michigan Department of Health and Human Services (MDHHS) was represented by Diana Weyhmiller, supervisor, and Patrick Doran, specialist.

**ISSUE**

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

**FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. At all relevant times, Petitioner's household included his spouse (hereinafter "Spouse").
2. At all relevant times, Petitioner and Spouse were over the age of ██████ years.
3. Petitioner received \$█████/month in Retirement, Survivors and Disability Insurance (RSDI). Petitioner also received gross employment income of \$█████/month. (Exhibit A, pp. 5-6)

4. Spouse was eligible for gross RSDI of \$█/month. Spouse's RSDI was reduced by a Medicare premium which resulted in a net RSDI of \$█/month. (Exhibit A, pp. 7-8)
5. On December 5, 2017, MDHHS determined Spouse to be eligible for Medicaid subject to a \$█/month deductible, effective January 2018. (Exhibit A, pp. 15-19)
6. On March 15, 2018, MDHHS updated Spouse's deductible to \$█/month beginning April 2018.
7. On April 12, 2018, Petitioner requested a hearing to dispute Spouse's 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 Spouse's eligibility of Medicaid subject to a monthly deductible. Petitioner sought to dispute MA eligibility from January 2018. MDHHS mailed the corresponding Health Care Coverage Determination Notice (HCCDN) (Exhibit A, pp. 15-19) on December 5, 2017. Clients have 90 calendar days from the date of written notice mailing to request a hearing. BAM 600 (January 2018) p. 6. MDHHS received Petitioner's hearing request concerning Spouse's MA eligibility from January 2018 more than 90 days from the date that the corresponding HCCDN was mailed. Thus, Petitioner's hearing request was untimely and will be dismissed concerning the dispute of MA eligibility from January 2018.

MDHHS also mailed Petitioner a HCCDN on March 15, 2018. The notice stated, effective April 2018, Spouse was eligible for Medicaid subject to a \$█/month deductible. Petitioner's hearing request was received by MDHHS within 90 days from the mailing date of the notice dated 3/15/18. Thus, Petitioner's hearing request was timely to dispute Spouse MA eligibility from April 2018 and the analysis will proceed to determine if Spouse's determination was proper.

Medicaid is also known as Medical Assistance (MA). The Medicaid program comprise several sub-programs or categories. To receive MA under a Supplemental Security

Income (SSI)-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. Medicaid eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, MICHild and Healthy Michigan Plan is based on Modified Adjusted Gross Income (MAGI) methodology. BEM 105 (April 2017), p. 1.

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

The evidence provided no indication that Spouse qualified for any Medicaid category through MAGI. Spouse was disabled and/or aged. As a disabled and/or aged individual, Spouse is potentially eligible to receive Medicaid through AD-Care. BEM 163 outlines the procedures for determining AD-Care eligibility.

MDHHS calculated Petitioner's employment to be \$ [REDACTED]/month; Petitioner testimony acknowledged the amount to be correct. For AD-Care, employment income is countable after a \$65 and 50% disregard. Petitioner's countable employment income, for purposes of AD-Care, is \$ [REDACTED]

Petitioner's representative contended that MDHHS erred by counting Spouse's gross RSDI. [For all programs,] Bridges counts the gross RSDI benefit amount as unearned income. BEM 503 (July 2017), p. 31. Gross amount means the amount of RSDI before any deduction, such as Medicare. BEM 163 (July 2017), p. 2. Some exceptions exist to counting gross RSDI in determining program eligibility (e.g. Medicare premium refunds, returned benefits (see BEM 500), fees paid to qualified organizations acting as a payee ...); the evidence was not indicative that any exceptions were applicable to the present case.

In determining Petitioner's AD-Care eligibility, MDHHS properly counted Petitioner's and Spouse's gross RSDI of \$ [REDACTED] and \$ [REDACTED] MDHHS allows for a \$20 income disregard. Adding Petitioner's gross RSDI, Spouse's gross RSDI, and Petitioner's countable employment income and subtracting the \$20 disregard results in a running total net income of \$ [REDACTED]

MDHHS also gives AD-Care budget credits for guardianship expenses, conservator expenses, and cost of living adjustments (for January through March only); none were applicable to the present case. Petitioner's and Spouse net income for purposes of AD-Care eligibility is \$ [REDACTED]

Net income cannot exceed one hundred percent of the federal poverty level. *Id.*, p. 2. The income limit for a two-person AD-Care group is \$1,373.33. RFT 242 (April 2017) p. 1. Spouse's countable group income exceeds the AD-Care limit listed in RFT 242. Thus, Spouse is not eligible for Medicaid through AD-Care.

Spouse 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 for the same \$20 disregard for unearned income and the same \$65 + 50% disregard for earned income used above. Adding Petitioner's RSDI, Spouse's RSDI, and Petitioner's countable employment income results in a total net income of \$ [REDACTED]

The G2S budget also factors ongoing medical expenses (which are applied toward a deductible), insurance premiums, and remedial services. The only relevant expense was a \$ [REDACTED]/month Medicare premium deducted from Spouse's RSDI. Subtracting Spouse's Medicare premium from the total net income results in a countable income of \$ [REDACTED]

A client's 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 \$516 (see RFT 240 (December 2013), p. 1).

Subtracting the PIL results in a monthly deductible of \$ [REDACTED] (dropping cents), the same amount calculated by MDHHS. It is found that MDHHS properly determined Spouse's Medicaid eligibility for April 2018.

### **DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner failed to timely request a hearing to dispute Spouse's MA eligibility from January 2018 through March 2018. Concerning Spouse's MA eligibility from January 2018 through March 2018, Petitioner's hearing request is **DISMISSED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly determined Petitioner's spouse to be eligible for Medicaid subject to a \$ [REDACTED]/month deductible beginning April 2018. The actions taken by MDHHS are **AFFIRMED**.

CG/



**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) 763-0155; 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**

Kimberly Kornoelje  
MDHHS-Kent-Hearings

**Petitioner**

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