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GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

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Date Mailed: September 10, 2018
MAHS Docket No.: 18-007096
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 August 16, 2018, from Detroit, Michigan. Petitioner appeared and was unrepresented. ██████████, Petitioner's spouse, testified on behalf of Petitioner. The Michigan Department of Health and Human Services (MDHHS) was represented by Dionere Craft, hearing facilitator. ██████████ participated as a translator.

ISSUE

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

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 a member of a household that included her spouse (hereinafter "Spouse") and two minor children.
2. At all relevant times, Petitioner and Spouse owned a rental property. Petitioner and Spouse received \$█████████/month in rental income from the property. The rental property also included obligations of property taxes and a mortgage of approximately \$█████████/month.

3. At all relevant times, Spouse received \$[REDACTED]/month in gross Retirement, Survivors and Disability Insurance (RSDI).
4. At all relevant times, Spouse worked 30-40 hours per week for \$[REDACTED]/hour.
5. On an unspecified date, MDHHS received documentation verifying Spouse's property tax obligation on the rental property.
6. On an unspecified date, MDHHS determined that Spouse was eligible for Medicaid subject to an \$[REDACTED]/month deductible, effective April 2018 (see Exhibit A, p. 1). The determination factored gross employment income of \$[REDACTED] per month, \$[REDACTED] in RSDI, and \$[REDACTED] in income from rental property.
7. On an unspecified date, MDHHS determined that Spouse was eligible for Medicaid subject to a \$[REDACTED]/month deductible, effective June 2018.
8. On May 7, 2018, Petitioner requested a hearing to dispute Spouse's MA eligibility beginning April 2018.

CONCLUSIONS OF LAW

The 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. The Department (formerly known as the Department of Human Services) 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 eligibility for Spouse. Spouse testified that he requested a hearing before May 7, 2018, to dispute Medicaid eligibility from 2017. Petitioner's hearing request provided no reference to a previously submitted hearing request or a dispute of MA benefits from the previous year. Given the evidence, Petitioner's hearing request will be interpreted only as a dispute of MA eligibility from April 2018.

In their summary, MDHHS alleged that a hearing was unnecessary because Petitioner received full Medicaid (i.e. Medicaid not subject to a deductible); during the hearing, MDHHS acknowledged that Spouse received Medicaid subject to an \$[REDACTED]/month deductible beginning April 2018.

Medicaid is also known as Medical Assistance (MA). The Medicaid program comprises 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. *Id.* 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.

As of the hearing date, Spouse was 19-64 years of age, not pregnant, and a caretaker to minor children. Spouse was employed but also received RSDI. Spouse's receipt of RSDI is suggestive of potential eligibility for SSI-related categories. Spouse's employment and status as a caretaker of minor children is suggestive of potential eligibility for MAGI-related categories. MDHHS did not clarify what types of categories for which Spouse would be eligible. No matter which categories for which Spouse may be eligible, the income factored by MDHHS generally does not change across MA categories. In the present case, the income factored by MDHHS was the primary dispute.

MDHHS factored Spouse's RSDI as \$ [REDACTED]. MDHHS testified that a State Online Query obtained from information from the Social Security Administration verified that spouse received \$ [REDACTED]/month in RSDI. MDHHS also testified that MDHHS paid Spouse's Medicare premium as of March 2018. Spouse initially testified that he received \$ [REDACTED] in monthly RSDI but eventually testified that his net income was between \$ [REDACTED] and \$ [REDACTED]. Spouse's testimony implied that MDHHS should have only factored his net RSDI which was reduced for a \$ [REDACTED]/month Medicare payment. MDHHS policy states that MDHHS is to generally count gross RSDI as income. BEM 503 (July 2017), p. 31. Exceptions to the general rule do not include payment for a Medicare premium. Given the evidence, MDHHS properly budgeted Spouse's RSDI as \$ [REDACTED]/month.

MDHHS provided testimony that Spouse's employment income was calculated to be \$ [REDACTED]/month. Spouse testified that he worked 30-40 hours/week for \$ [REDACTED]/hour. Spouse's testimony was consistent with the employment income factored by MDHHS.

Spouse testified that he owned a rental property which earned \$ [REDACTED]/month in rent. In determining Spouse's MA eligibility, MDHHS factored \$ [REDACTED]/month in rental property income. Spouse testified he paid \$ [REDACTED]/month for a mortgage on the rental property. Spouse also testified that he is responsible for \$ [REDACTED] in annual property taxes and over \$ [REDACTED]/year for property insurance. MDHHS did not factor any of Spouse's claimed rental property expenses.

Rental income is money an individual (landlord) receives for allowing another individual (renter) to use the landlord's property. BEM 504 (January 2018), p. 1. Bridges counts the gross rent payment minus allowable expenses as income. *Id.* Allowable rental expenses may include mortgage, property taxes, utilities, repairs, and other various expenses. *Id.*

Spouse testified that he submitted documentation of his rental property taxes to MDHHS. During the hearing, MDHHS eventually acknowledged that Spouse submitted verification of property taxes for the rental. MDHHS also acknowledged that the taxes were not factored in the MA determination.

Given the evidence, MDHHS failed to properly factor Spouse's rental property expenses. MDHHS' failure entitles Spouse to a recalculation of MA eligibility.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly determined Spouse's MA eligibility. It is ordered that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

- (1) Redetermine Spouse's MA eligibility, effective April 2018, subject to the finding that MDHHS improperly excluded Spouse's rental property expenses; and
- (2) Initiate a supplement, if any, of any benefits improperly not issued.

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

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

Clarence Collins
MDHHS-Wayne-55-Hearings

Petitioner

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[REDACTED] MI [REDACTED]

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