



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: September 4, 2018  
MAHS Docket No.: 18-007431  
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 29, 2018, from Detroit, Michigan. Petitioner appeared and observed the hearing. ██████████, Petitioner's father and guardian, testified and appeared as Petitioner's authorized hearing representative (AHR). Sandra Duque, Petitioner's caseworker from ██████████ testified on behalf of Petitioner. Petitioner's mother, testified on behalf of Petitioner. The Michigan Department of Health and Human Services (MDHHS) was represented by Christina Williams, hearing facilitator.

**ISSUE**

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

**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, MDHHS was aware that Petitioner had a guardian. (Exhibit A, p. 4)
2. Petitioner was an ongoing recipient of Medicaid.
3. At all relevant times, Petitioner received Retirement, Survivors and Disability Insurance (RSDI) of \$█████████/month. (Exhibit A, pp. 8-10)

4. On April 26, 2016, MDHHS determined that Petitioner was eligible for Medicaid subject to a monthly deductible of \$662, beginning June 2018. (Exhibit A, pp. 11-13)
5. On July 20, 2018, MDHHS received Petitioner's AHR's hearing request disputing the determination changing Petitioner's Medicaid eligibility to Medicaid subject to a deductible. (Exhibit A, p. 3)
6. On July 23, 2018, MDHHS determined that Petitioner was eligible for Medicaid subject to a monthly deductible of \$642, beginning August 2018. (Exhibit A, pp. 5-7)

### **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's AHR requested a hearing disputing a change in Petitioner's MA coverage from Medicaid to Medicaid subject to a deductible. MDHHS presented a Health Care Coverage Determination Notice (Exhibit A, pp. 11-13) stating that Petitioner was eligible for Medicaid subject to a deductible beginning June 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.

Medicaid categories are also divided into Group 1 and Group 2 categories. For Group 1, net income (countable income minus allowable income deductions) must be at or below a certain income limit for eligibility to exist. Medical expenses are not used when determining eligibility for MAGI-related and SSI-related Group 1 categories. For Group 2, eligibility is possible even when net income exceeds the income limit. This is because incurred medical expenses are used when determining eligibility for Group 2 categories. Group 2 categories are considered a limited benefit because a deductible is possible. (*Id.*, 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)

Petitioner's AHR contended that Petitioner was eligible for Medicaid because of her costly medical expenses without Medicaid. Medical expenses only factor in whether a Medicaid deductible is met for Group 2 MA categories. Medical expenses do not factor into whether a client is eligible for MA categories without a deductible (i.e. Group 1 categories). Petitioner's AHR essentially contended that Petitioner should be eligible for a Group 1 MA category.

As of the hearing date, Petitioner was disabled, not pregnant, and not a caretaker to minor children. Thus, Petitioner appears ineligible for all MAGI-related categories. As a disabled individual, Petitioner is potentially eligible for Medicaid through AD-Care.

AD-Care is an SSI-related Group 1 MA category. Consider eligibility under this category only if eligibility does not exist under BEM 154 through 158. AD-Care is available to persons who are aged or disabled. Net income cannot exceed 100% of the poverty level. (BEM 163 (July 2017), p. 1)

MDHHS testimony indicated that Petitioner's AD-Care eligibility was not considered. If the MDHHS is accurate, then MDHHS should be ordered to consider Petitioner's AD-Care eligibility as Petitioner appears potentially eligible. It is also possible that MDHHS did consider Petitioner's AD-Care eligibility but found Petitioner to be ineligible due to excess income. In such a scenario, MDHHS might have determined that Petitioner's RSDI exceeded the income limit set by RFT 242 by approximately \$20 and then proceeded to consider Group 2 categories for Petitioner. In such a scenario, MDHHS neglected to factor Petitioner's guardianship status and expenses. BEM 541 allows for a standard \$95 credit for guardianship expenses. The credit, if given, appears to be the difference between Petitioner's AD-Care eligibility and non-ineligibility.

Whether MDHHS did or did not consider Petitioner's AD-Care eligibility is of no matter. The evidence supports a finding that MDHHS improperly factored Petitioner's eligibility for AD-Care. Petitioner's proper remedy is for MDHHS to evaluate Petitioner for AD-Care eligibility. The below order will also emphasize that MDHHS should recognize Petitioner's guardianship expenses in calculating Petitioner's eligibility for AD-Care.

**DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly determined Petitioner'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 Petitioner's AD-Care eligibility beginning June 2018, including consideration of Petitioner's guardianship expenses; and
- (2) Initiate a supplement of any benefits improperly not issued.

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

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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) 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**

Jeanenne Broadnax  
MDHHS-Wayne-18-Hearings

**Petitioner**

[REDACTED]  
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**Authorized Hearing Rep**

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