



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.: 18-007517
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 3-way telephone hearing was held on August 29, 2018, from Detroit, Michigan. Petitioner's guardian and authorized hearing representative (AHR), ██████████, appeared on behalf of Petitioner. The Michigan Department of Health and Human Services (MDHHS) was represented by Rene Colvin, supervisor, Mercedes Heath, specialist, and Candice Benns, hearing facilitator.

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 through February 2018.
2. At all relevant times, Petitioner was unmarried with no minor children, disabled, and never a recipient of Supplemental Security Income (SSI).
3. At all relevant times, Petitioner had a guardian.
4. As of March 2018, Petitioner was eligible to receive \$████████/month in gross unearned income.

5. On an unspecified date, MDHHS determined Petitioner was eligible for Medicaid, subject to a monthly deductible, effective March 2018.
6. On May 8, 2018, Petitioner's AHR requested a hearing to dispute the MA determination that Petitioner was eligible for Medicaid subject to a deductible. (Exhibit A, p. 2)
7. On July 23, 2018, Petitioner's AHR requested another hearing to dispute Petitioner's MA eligibility under the belief that MDHHS lost Petitioner's first hearing request.

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).

MDHHS received two hearing requests from Petitioner's AHR on July 23, 2018, disputing Petitioner's MA eligibility. One hearing request, signed by Petitioner's AHR on July 23, 2018, alleged that MDHHS misplaced a hearing request dated May 8, 2018. The second hearing request was signed by Petitioner's AHR on May 8, 2018. Petitioner's AHR credibly testified that she submitted her hearing request signed on May 8, 2018, the same date she signed it. Given the evidence, Petitioner's hearing request signed May 8, 2018, will be recognized as received by MDHHS on May 8, 2018.

Petitioner's AHR requested a hearing to dispute Petitioner's change in MA eligibility from Medicaid to a Medicaid deductible. MDHHS did not present a corresponding written notice of the action, however, the evidence indicated that the disputed determination affected Petitioner's MA eligibility beginning March 2018.

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. *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.

Petitioner's AHR contended that Petitioner was eligible for Medicaid because of the Pickle Amendment. The MA category corresponding to the Pickle Amendment is 503 Individuals. The evidence suggested that MDHHS did not consider Petitioner's Medicaid eligibility as a 503 Individual. To qualify for Medicaid as a 503 Individual, a person must have received SSI benefits. BEM 155 (July 2013) p. 1. Petitioner's AHR conceded that Petitioner never received SSI benefits. Thus, MDHHS properly never considered Petitioner's eligibility for Medicaid as a 503 Individual.

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. By determining Petitioner to be eligible for Medicaid subject to a deductible indicates that MDHHS determined Petitioner to have excess income for AD-Care. BEM 163 outlines the procedures for determining AD-Care eligibility.

Gross amount means the amount of RSDI before any deduction, such as Medicare. BEM 163 (July 2017), p. 2. Bridges counts gross RSDI as unearned income. BEM 503 (July 2017), p. 31. BEM 500 lists some exceptions 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 factored Petitioner's unearned income of \$[REDACTED]/month. No other income was applicable. The income limit for a one-person AD-Care group is \$1,031.67. RFT 242 (April 2017) p. 1. Presumably, MDHHS did not factor any expenses and denied AD-Care eligibility based on Petitioner's income exceeding the income limit.

MDHHS gives AD-Care budget credits for employment income, guardianship and/or conservator expenses and cost of living adjustments (COLA)¹. MDHHS is to deduct \$[REDACTED] for court-appointed guardian and/or conservator expenses paid by a fiscal group member from the remaining combined income of the fiscal group. BEM 541 (January 2018) p. 3.

MDHHS testimony acknowledged that Petitioner reported having a guardian. MDHHS further acknowledged awareness of guardianship expenses that were not factored in determining Petitioner's MA eligibility for March 2018. The failure to factor Petitioner's guardianship expenses justifies ordering recalculation of Petitioner's MA eligibility.

¹ COLA adjustments apply only for benefit months of January, February, and/or March.

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 MA eligibility beginning March 2018 subject to the finding that Petitioner reported guardianship expenses; and
- (2) Initiate a supplement 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

Deborah Little
MDHHS-Wayne-49-Hearings

Authorized Hearing Rep.

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[REDACTED]
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Petitioner

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