



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 19, 2018  
MAHS Docket No.: 18-007578  
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 was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Christina Williams, hearing facilitator.

**ISSUE**

The issue is whether MDHHS properly terminated Petitioner's Healthy Michigan Plan (HMP) 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 HMP recipient along with her spouse (hereinafter, "Spouse") and three minor children.
2. At all relevant times, Petitioner was not disabled.
3. On March 13, 2018, Petitioner submitted proof of the following gross weekly employment pays to MDHHS: \$ ██████████ on January 19, 2018; \$ ██████████ on January 26, 2018; \$ ██████████ on February 2, 2018; \$ ██████████ on February 9, 2018; and \$ ██████████ on February 16, 2018. (Exhibit A, pp. 19-23)

4. On an unspecified date, MDHHS received documentation of the following gross biweekly employment pays for Spouse: \$ [REDACTED] on March 8, 2018; and \$ [REDACTED] on April 5, 2018. (Exhibit A, pp. 24-26)
5. On March 14, 2018, MDHHS determined that Petitioner, effective April 2018, was eligible for Medicaid subject to a \$ [REDACTED]/month deductible. (Exhibit A, pp. 4-9)
6. On June 1, 2018, an administrative law judge ordered MDHHS to redetermine Petitioner's and Spouse's MA eligibility effective April 2018. (Exhibit A, pp. 34-38)
7. On June 25, 2018, MDHHS determined that Spouse, for July 2018, was eligible for Medicaid subject to a \$ [REDACTED]/month deductible which was limited to emergency services only. (Exhibit A, pp. 10-13)
8. On June 26, 2018, MDHHS determined that Spouse, effective April 2018, was eligible for Medicaid subject to a \$ [REDACTED]/month deductible which was limited to emergency services only. (Exhibit A, pp. 14-18)
9. On July 20, 2018, Petitioner requested a hearing to dispute her MA eligibility from April 2018. (Exhibit A, pp. 32-33)

### **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 from April 2018. MDHHS presented a Health Care Coverage Determination Notice (HCCDN) (Exhibit A, pp. 14-18) dated June 26, 2018, stating that Spouse was eligible for Medicaid subject to a \$ [REDACTED]/month deductible. The most recent HCCDN presented for Petitioner stated that she was eligible for a Medicaid deductible of \$ [REDACTED] beginning April 2018. MDHHS credibly testified that Petitioner, as of the date of hearing, had the same \$ [REDACTED] monthly deductible as Spouse. For purposes of this decision, Petitioner's Medicaid deductible will be accepted to be \$ [REDACTED]

It should be noted that MDHHS determined Spouse to be eligible for emergency services only. Such a restriction is appropriate for persons with ineligible citizenship status (see BEM 225). Petitioner testimony acknowledged that the restriction was

appropriate. The subsequent analysis will only consider whether MDHHS otherwise properly determined Petitioner's and Spouse's MA eligibility.

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)

Neither Petitioner nor Spouse were alleged to be disabled. Thus, they appear ineligible for SSI-related categories but potentially eligible for MAGI-related categories.

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. 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)

Of the MAGI-related categories for which Petitioner and Spouse may be eligible, HMP has the highest income limit. Thus, if Petitioner and Spouse were not income-eligible for HMP, they would not be income-eligible for all Group 1 MAGI-related categories.

HMP is a health care program administered by the Michigan Department of Community Health, Medical Services Administration. The program is authorized under the Affordable Care Act of 2010 as codified under 1902(a)(10)(A)(i)(VIII) of the Social Security Act and in compliance with the Michigan Public Act 107 of 2013. HMP policies are found in the Medicaid Provider Manual and Modified Adjusted Gross Income Related Eligibility Manual (MAGIM).

HMP is a MAGI-related MA program. BEM 137 (April 2018) p. 1. MAGI-based income means income calculated using the same financial methodologies used to determine modified adjusted gross income as defined in section 36B(d)(2)(B) of the Internal Revenue Code. 42 CFR 435.603(e). Federal regulations require MDHHS to determine a person's financial eligibility for HMP based on a person's "household income". 42 CFR 435.603(c). Household income is the sum of MAGI-based income for each household member. 42 CFR 435.603(d).

For individuals who have been determined financially-eligible for MA using the MAGI-based methods set forth in this section, a State may elect in its State plan to base financial eligibility either on current monthly household income and family size or income based on projected annual household income and family size for the remainder of the current calendar year. 42 CFR 435.603 (h)(2). In determining current monthly or

projected annual household income and family size under paragraphs (h)(1) or (h)(2) of this section, the agency may adopt a reasonable method to include a prorated portion of reasonably predictable future income, to account for a reasonably predictable increase or decrease in future income, or both, as evidenced by a signed contract for employment, a clear history of predictable fluctuations in income, or other clear indicia of such future changes in income. 42 CFR 435.603 (h)(3).

Petitioner presented to MDHHS four weekly employment pays adding up to \$ [REDACTED] MDHHS also received two biweekly pays from Spouse which added up to \$ [REDACTED] Adding Petitioner's and Spouse's pays results in a total monthly income of \$ [REDACTED] Multiplying the income by 12 results in an annual income of \$ [REDACTED]

HMP income limits are based on 133% of the federal poverty level. RFT 246 (April 2014), p. 1. For Petitioner's group size (5 persons), the income limit is \$39,128.60.<sup>1</sup> Petitioner's income exceeds HMP limits. Thus, MDHHS properly determined Petitioner and Spouse to be ineligible for HMP.

As caretakers to minor children, Petitioner and Spouse are potentially eligible for a deductible through G2C. 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.

Income eligibility for G2C exists when net income does not exceed the Group 2 needs in BEM 544. BEM 135 (October 2015), p. 2. MDHHS is to apply the Medicaid policies in BEM 500, 530 and 536 to determine net income. *Id.* If the net income exceeds Group 2 needs, Medicaid eligibility is still possible. *Id.* See BEM 545. *Id.*

The same monthly income used in the HMP determination applies to the G2C determination. For purposes of G2C, Petitioner's income is \$ [REDACTED] and Spouse's income is \$ [REDACTED] MDHHS gives a \$90 credit for each person's employment income. Deductions are also given for child support payments, guardianship expenses, and for persons eligible for MA through Low-Income Family; none of these expenses are applicable. For purposes of G2C, Petitioner's net income is \$ [REDACTED] and Spouse's net income is \$ [REDACTED]

A prorated share of income is calculated by dividing the income by the sum of 2.9 and the number of dependents. In the present case, Petitioner and Spouse each have four dependents (3 children + 1 spouse). Dividing Petitioner's net earned income by 6.9 results in a prorated share of income of \$ [REDACTED] (dropping cents). Dividing Spouse's net income results in a pro-rated share of income of \$ [REDACTED] (dropping cents). MDHHS actually calculated lower pro-rated income shares (\$ [REDACTED] for Petitioner and \$ [REDACTED] for

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<sup>1</sup> See <https://aspe.hhs.gov/poverty-guidelines> for federal poverty limits.

Spouse). For purposes of this decision, the lower and more favorable pro-rated shares will be accepted as accurate.

To determine a total net income, Petitioner's pro-rated share is multiplied by 2.9. Spouse's share is multiplied by 3.9. The couple's share of each other's income is the same as Petitioner's pro-rated share. These three amounts are added together to determine a running income total of \$ [REDACTED]

Deductions are given for insurance premiums, remedial services and ongoing medical expenses. No evidence of expenses was presented; thus, they are presumed to be \$0.

The income limit for G2C eligibility for Petitioner's group size and shelter area is \$500 (see RFT 240 (December 2013), p. 1). The amount that Petitioner's net income exceeds the income limit is the amount of deductible. Petitioner's deductible is calculated to be \$ [REDACTED] the same amount as calculated by MDHHS. The same total net income calculation applies to Spouse. Given the evidence, MDHHS properly determined Petitioner and Spouse to be eligible for Medicaid subject to a \$ [REDACTED]/month deductible.

### **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 and Spouse's MA eligibility effective April 2018. Concerning Petitioner's and Spouse's MA eligibility, 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**

Jeanenne Broadnax  
MDHHS-Wayne-18-Hearings

**Petitioner**

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