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GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: February 22, 2019
MAHS Docket No.: 18-013704
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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 February 13, 2019, from Detroit, Michigan. Petitioner represented himself. The Department of Health and Human Services (Department) was represented by ██████████, Eligibility Specialist.

ISSUE

Did the Department properly determine that Petitioner was eligible for Medical Assistance (MA) benefits subject to a deductible in the amount of \$1,068.00 per month?

Did the Department properly determine that Petitioner's wife was ineligible for 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. On ██████████ 2018, Petitioner submitted an application for MA benefits on behalf of himself and his wife.
2. In the application, Petitioner listed both he and his wife as household members.
3. At the time of the application, Petitioner received \$ ██████████ in unearned income.
4. At the time of application, Petitioner's wife received \$ ██████████ in earned income.

5. The Department determined that Petitioner was eligible for MA benefits subject to a monthly deductible in the amount of \$[REDACTED] per month.
6. The Department further determined that Petitioner's wife was ineligible for MA benefits.
7. On October 23, 2018, Petitioner submitted a timely Request for Hearing disputing the Department's actions.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

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.

Additionally, only persons living with one another can be in the same group. BEM 211 (January 2016), p. 6. Living with others means sharing a home where family members usually sleep, **except** for temporary absences. A temporarily absent person is considered in the home. BEM 211, p. 6. Further, a person's absence is temporary if for the month being tested:

- His/her location is known; **and**
- There is a definite plan for him/her to return home; **and**
- He/she lived with the group before the absence (**Note:** newborns and unborns are considered to have lived with their mothers); **and**
- The absence did not last, or is not expected to last, the entire month being tested unless the absence is for education, training, or active duty in the uniformed services of the U.S. *Id.*

In this case, Petitioner argued that his wife's income should not be joined when determining his eligibility for MA benefits. Petitioner testified that he and his wife live at two different residences. Petitioner indicated that his wife visits him on the weekend and then "returns home" where she lives with their son. Petitioner explained that he and his wife are not divorced and have no plans to divorce. However, they are unable to live together because their son has a drug addiction which causes him to steal items from the home. Petitioner indicated that he refuses to live in that environment but that his

wife resides with their son because she takes care of the son. Petitioner testified that he and his wife have separate household bills and the address listed on her driver's license is that of their son's residence.

The Department presented an application for MA benefits submitted by Petitioner. In the application, Petitioner lists his wife as a household member. In the application, Petitioner indicates that he and his wife share joint banking accounts. Petitioner lists his wife's employment information. There is a section on the application which asks if there is anything else Petitioner would like the Department to know about his situation. Petitioner indicated "no". As such, Petitioner did not provide any information relating to his wife's temporary or permanent absence from the home. Therefore, it is found that based upon the information the Department had at the time of application, it properly determined the Petitioner's wife was a household member and thus, properly included her income in determining his eligibility for MA benefits.

Petitioner is eligible for Group 2 Aged, Blind and Disabled MA benefits. Petitioner is [REDACTED] years of age and disabled. BEM 166 (April 2017), P. 1. The Department provided a budget which revealed that Petitioner receives \$[REDACTED] in unearned income and that his wife earns \$[REDACTED] in earned income. Under Department policy, Petitioner's group is entitled to a \$[REDACTED] general exclusion as well as an earned income deduction. BEM 541 (November 2018), p. 3. Petitioner pays insurance premiums in the amount of \$[REDACTED]. After subtracting the general exclusion, earned income deduction and the insurance premium, the household's net income was determined to be \$[REDACTED]. The protected income limit for a group size of two residing in Wayne County is \$[REDACTED]. When the PIL is subtracted from the net income, the remaining deductible amount is \$[REDACTED]. It is found that the Department properly determined Petitioner's monthly deductible amount.

The Department provided the Health Care Coverage Determination Notice sent to Petitioner's wife on October 23, 2018. The Department determined that Petitioner's wife was ineligible for MA benefit as the household income exceeded the income limit. The Healthy Michigan Plan (HMP) provides health care coverage for individuals who:

- Are 19-64 years of age.
- Do not qualify for or are not enrolled in Medicare.
- Do not qualify for or are not enrolled in other Medicaid programs.
- Are not pregnant at the time of application.
- Meet Michigan residency requirements.
- Meet Medicaid citizenship requirements.
- Have income at or below 133% Federal Poverty Level (FPL). BEM (April 2018), p. 1.

Petitioner's wife is not eligible for Group 2 Aged, Blind and Disabled as she is 60 years old and is not disabled. Further, the household income exceeds the income limit to allow Petitioner's wife to qualify for HMP benefits. The household income before any deductions is \$[REDACTED]. The monthly income limit for a group size of two is \$1,824.00

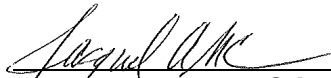
(\$21,891.80/12). Because Petitioner's household is over the income limit, his wife is not entitled to MA benefits.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it determined that Petitioner was eligible for MA benefits subject to a deductible in the amount of \$ [REDACTED] per month and further, when it determined that Petitioner's wife was ineligible for MA benefits.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

JAM/tlf



Jacquelyn A. McClinton
Administrative Law Judge
for Robert Gordon, 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

Via Email:

MDHHS-Wayne-41-Hearings
BSC4 Hearing Decisions
EQAD
[REDACTED]
MAHS

Petitioner – Via First-Class Mail:

[REDACTED]
[REDACTED]
[REDACTED]