



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: March 26, 2019
MAHS Docket No.: 19-001253
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 March 21, 2019, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Haysem Hosny, hearing facilitator.

ISSUE

The issue is whether MDHHS properly determined Petitioner's Medicaid 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. As of November 2018, Petitioner was an ongoing Medicaid recipient under the Freedom-to-Work (FTW) category.
2. As of November 2018, Petitioner was non-pregnant, married, a Medicare recipient, and a disabled individual with no minor children.
3. As of November 2018, Petitioner and her husband received combined RSDI of \$2,709/month. Petitioner also received an unspecified employment income from part-time employment.

4. On December 13, 2018, Petitioner reported to MDHHS that her employment income stopped. Exhibit A, pp. 12-13
5. On January 22, 2019, MDHHS determined that Petitioner was eligible for Medicaid subject to a \$2,048/month deductible.
6. On [REDACTED], 2019, Petitioner requested a hearing to dispute her Medicaid eligibility from March 2019. Exhibit A, pp. 1-3.

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 Medicaid beginning March 2019. MDHHS presented a Health Care Coverage Determination Notice (Exhibit A, pp. 21-27) dated January 22, 2019, stating that Petitioner was eligible for Medicaid subject to a \$2,048/month deductible. An analysis of whether MDHHS properly determined Petitioner's Medicaid eligibility requires consideration of Petitioner's potential Medicaid categories.

Medicaid is also known as Medical Assistance (MA). BEM 105 (April 2017), p. 1. The Medicaid program includes several sub-programs or categories. *Id.* 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. *Id.*

Persons may qualify under more than one MA category. *Id.*, p. 2. Federal law gives them the right to the most beneficial category. *Id.* The most beneficial category is the one that results in eligibility, the least amount of excess income or the lowest cost share. *Id.*

Notably, Petitioner received Medicaid under the FTW category before MDHHS determined that Petitioner was eligible for Medicaid subject to a deductible. MDHHS indicated that Petitioner was ineligible for Medicaid under FTW after Petitioner reported on December 13, 2018, that her employment ended.

FTW is a SSI-related Group 1 MA category. FTW is available to a client with disabilities, aged 16 through 64, with earned income. BEM 174 (January 2017) p. 1. Eligibility begins the first day of the calendar month in which all eligibility criteria are met. *Id.* All eligibility factors must be met in the calendar month being tested. *Id.*

Once Petitioner stopped receiving employment income, Petitioner failed to meet a requirement for Medicaid under FTW. Thus, MDHHS properly did not evaluate Petitioner's Medicaid eligibility under FTW once Petitioner stopped working. The analysis will continue to evaluate Petitioner's eligibility under other Medicaid categories.

As of the hearing date, Petitioner was disabled and/or aged, not pregnant, a Medicare recipient, and not a caretaker to minor children. Thus, Petitioner appears ineligible for all MAGI-related categories. As a disabled and/or aged individual, Petitioner is potentially eligible for Medicaid through the SSI-related category of AD-Care. Presumably, MDHHS denied AD-Care to Petitioner based on excess income.

MA categories are also split into categories of Group 1 and Group 2. *Id.*, p. 1. For Group 1, a group's net income must be at or below a certain income level for eligibility. *Id.* AD-Care is a Group 1 category. BEM 163 outlines the procedures for determining AD-Care eligibility.

As a married individual, for purposes of AD-Care, Petitioner's and her spouse's RSDI would be countable income. As of 2019, the combined RSDI of Petitioner and her Spouse was \$2,785/month.

MDHHS gives AD-Care budget credits for employment income, guardianship and/or conservator expenses. Cost of living adjustments (COLA) are applicable for the benefit months of January through March only. As Petitioner's eligibility for March 2019 was disputed, Petitioner's and her spouse's RSDI increase from 2018 is relevant. MDHHS testified that Petitioner and her spouse received a combined RSDI of \$2,709 in 2018. The difference between Petitioner's and her spouse's income in 2018 and 2019 suggests a COLA of \$76 in 2019. The evidence suggested no other applicable expenses. Subtracting the \$76 COLA from Petitioner's and her spouse's RSDI results in a countable income of \$2,709.

AD-care income limits are 100% of the Federal Poverty Level + \$20. RFT 242 (April 2018) p. 1. The income limit for a two-person AD-Care group is \$1,391.67. *Id.* Petitioner's group's countable income exceeds the AD-Care income limit; and therefore, Petitioner is not eligible for Medicaid through AD-Care. Thus, MDHHS properly denied Medicaid to Petitioner under AD-Care.

Petitioner appears ineligible for all under Group 1 categories. The analysis will proceed to consider Petitioner's eligibility for Medicaid under Group 2 categories.

For Group 2 categories, eligibility is possible even when net income exceeds the income limit for a Group 1 category; this is possible because incurred medical expenses

are used when determining eligibility. *Id.* Group 2 categories are considered a limited benefit because a deductible is possible. *Id.*

Clients with a deductible may receive Medicaid if sufficient allowable medical expenses are incurred. BEM 545 (April 2018), p. 11. Each calendar month is a separate deductible period. *Id.* The fiscal group's monthly excess income is called the deductible amount. *Id.* Meeting a deductible means reporting and verifying allowable medical expenses that equal or exceed the deductible amount for the calendar month. *Id.*

To determine G2S eligibility, the starting point is again the monthly income for Petitioner and her spouse. Petitioner's income for purposes of G2S is \$2,785/month. Again, a COLA is disregarded for the benefit months of January-March. For purposes of G2S, Petitioner's countable income is \$2,709.

The G2S budget allows a \$20 disregard for unearned income and various earned income disregards. The G2S budget also factors ongoing medical expenses (which are applied toward a deductible), insurance premiums, and remedial services. Petitioner did not allege having any such expenses.

A client's deductible is calculated by subtracting the protected income level (PIL) from the MA net income. A PIL is a standard allowance for non-medical need items such as shelter, food and incidental expenses. The PIL for Petitioner's shelter area and group size is \$541 (see RFT 240 (December 2013), p. 1).

Subtracting the PIL and \$20 disregard from Petitioner's countable income results in a monthly deductible of \$2,148. MDHHS calculated Petitioner's deductible to be \$2,048. For purposes of this decision, the lower (and more favorable for Petitioner) deductible calculated by MDHHS will be accepted as correct. Thus, it is found that MDHHS properly determined Petitioner to be eligible for Medicaid, effective March 2019, subject to a \$2,048/month deductible.

As discussed during the hearing, the difference between Petitioner receiving Medicaid versus Medicaid subject to a deductible may be her eligibility for the FTW category. Income eligibility for FTW offers a much higher income level than other Medicaid categories.¹ Thus, Petitioner may want to return to part-time employment for a reconsideration of Medicaid through FTW.

¹ Initial income eligibility exists for FTW when the client's countable income does not exceed 250 percent of the Federal Poverty Level (FPL). BEM 174 (January 2017) p. 3.

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 Medicaid eligibility effective March 2019. The actions taken by MDHHS are **AFFIRMED**.

CG/cg



Christian Gardocki

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-Macomb-36-Hearings
D. Smith
EQAD
BSC4- Hearing Decisions
MAHS

Petitioner – Via First-Class Mail:

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