



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS  
DIRECTOR

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Date Mailed: June 13, 2019  
MOAHR Docket No.: 19-004650  
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 3-way telephone hearing was held on June 13, 2019, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Morgan Hafler, hearing facilitator, and Wendy Shelby, specialist.

**ISSUE**

The issue is whether MDHHS properly determined Petitioner's Medical Assistance (MA) eligibility beginning May 2019.

**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, Petitioner was unmarried, disabled, and not a caretaker to minor children.
2. As of 2019, Petitioner received Retirement, Survivors and Disability Insurance (RSDI) of \$1,887.50/month.
3. On an unspecified date, Petitioner began receiving Medicare at a cost of \$135.50/month.
4. On April 11, 2019, MDHHS determined Petitioner to be eligible for Medicaid subject to a \$1,356/month deductible beginning May 2019.

5. On April 30, 2019, Petitioner requested a hearing to dispute Medicaid eligibility.

### **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 Medicaid eligibility. Petitioner testified that he primarily requested a hearing to dispute Medicaid eligibility for April 2019 after his insurance company told him that he did not have coverage for that month. MDHHS presented a screen dump of Petitioner's past Medicaid eligibility. Exhibit A, p. 11. The document verified Petitioner's Medicaid coverage for April 2019 under the Healthy Michigan Plan (HMP). Given the evidence, MDHHS did not terminate Petitioner's Medicaid coverage beginning April 2019.

Though Petitioner had Medicaid coverage for April 2019, on April 11, 2019, MDHHS mailed to Petitioner notice of eligibility for Medicaid subject to a \$1,356/month deductible beginning May 2019. Exhibit A, pp. 3-6. Petitioner disputed the reduction from Medicaid with no deductible to Medicaid subject to a deductible.

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.*

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

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 income eligibility under AD-Care.

Determining AD-Care income eligibility begins with factoring a client's income. As of the disputed benefit month, Petitioner received \$1,887.50/month in RSDI.

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. BEM 503 (January 2019), p. 29. No expenses were applicable in the present case.

AD-care income limits are 100% of the Federal Poverty Level + \$20. RFT 242 (April 2019) p. 1. The income limit for a one-person AD-Care group is \$1,061. *Id.* Petitioner's countable income exceeds the AD-Care income limit. Therefore, Petitioner is not eligible for Medicaid through AD-Care.

Notably, Petitioner began receiving Medicare in 2019. Petitioner previously received Medicaid under the HMP category. HMP is not a Medicaid category available to Medicare recipients. BEM 137 (January 2019), p. 1. The issuance of Medicare perhaps explains why MDHHS determined Petitioner was now eligible for Medicaid subject to a deductible.<sup>1</sup>

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.* For aged/disabled persons, G2S is the applicable Group 2 Medicaid category.

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.*

For G2S, a client's gross RSDI is counted. Thus, Petitioner's countable income for purposes of G2S is \$1,887.00 (dropping cents).

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. MDHHS factored insurance premiums of \$135.50 No other expenses were applicable.

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<sup>1</sup> HMP has a higher income limit than AD-Care. See RFT 242 and RFT 246. Petitioner's circumstances suggest his income falls under HMP income limits but above AD-Care income limits.

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 \$375 (see RFT 240 (December 2013), p. 1).

Subtracting the PIL, insurance premium, and \$20 disregard from Petitioner's countable income results in a monthly deductible of \$1,356 (dropping cents); the same deductible was calculated by MDHHS (see Exhibit A, p. 10). Thus, it is found that MDHHS properly determined Petitioner's Medicaid eligibility.

### **DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly determined Petitioner to be eligible for Medicaid subject to a \$1,356/month deductible beginning May 2019. The actions taken by MDHHS are **AFFIRMED**.

CG/jaf



**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 Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR 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. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules  
Reconsideration/Rehearing Request  
P.O. Box 30639  
Lansing, Michigan 48909-8139

**DHHS**

Keisha Koger-Roper  
MDHHS-Wayne-55-Hearings

**Petitioner**

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