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GOVERNOR

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

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DIRECTOR

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Date Mailed: August 13, 2019
MOAHR Docket No.: 19-006672
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 7, 2019, from ██████████ Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Taisia Singleton, specialist, and Brian Roedema, supervisor.

ISSUE

The issue is whether MDHHS properly determined Petitioner's Medical Assistance (MA) eligibility beginning March 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. On February 19, 2019, Petitioner applied for Medicaid. Exhibit A, pp. 1-13.
2. At all relevant times, Petitioner was 48 years old, disabled, not a caretaker to minor children, not pregnant, a recipient of Medicare, and unmarried.
3. As of February 2019, Petitioner was eligible for Retirement, Survivors and Disability Insurance (RSDI) of \$1,086/month. \$50 of the RSDI was recouped by the Social Security Administration due to overpayment.
4. On March 4, 2019, MDHHS determined Petitioner to be eligible for Medicaid subject to a \$675/month deductible beginning April 2019.

5. On an unspecified date, Petitioner reported to MDHHS that her RSDI was reduced due to recoupment of an overpayment.
6. On June 19, 2019, Petitioner requested a hearing to dispute the determination that she was eligible for Medicaid subject to a deductible.¹

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. A Health Care Coverage Determination Notice dated March 4, 2019, stated that Petitioner was eligible for Medicaid subject to a \$675 monthly deductible beginning April 2019.

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/or aged, not pregnant, a Medicare recipient, and not a caretaker to minor children. Given the evidence, Petitioner is 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.

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.

¹ Petitioner waited more than 90 days from the date of written notice before requesting a hearing. Under BAM 600, Petitioner's hearing request could be considered untimely. The evidence suggested that Petitioner reported a change to MDHHS that her RSDI was reduced due to recoupment. MDHHS did not process Petitioner's reported change. Framing Petitioner's dispute as an unprocessed change renders Petitioner's dispute to be timely.

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 was eligible for \$1,086/month in gross RSDI. MDHHS credibly testified that \$1,081 was factored in determining Petitioner's eligibility. Petitioner testified that \$50/month of RSDI is currently recouped due to previous overpayment. During the hearing, MDHHS corroborated Petitioner's testimony by checking Petitioner's State Online Query (SOLQ) which listed ongoing payments to Petitioner of \$1,036.²

Generally, MDHHS counts the gross RSDI benefit amount as unearned income. BEM 503 (April 2019), p. 28. One exception to budgeting gross income is for returned benefits. Benefits returned to the issuing agency are not part of gross income. BEM 500 (July 2017), p. 6. Amounts deducted by an agency to recover a previous overpayment or ineligible payment are also not part of gross income and should be excluded.³ *Id.*

As \$50/month of Petitioner's RSDI was being recouped for overpayment, MDHHS should not have counted the \$50 as part of Petitioner's gross RSDI. Thus, MDHHS improperly budgeted Petitioner's RSDI as \$1,086.

The analysis will proceed to determine if any other errors occurred in determining Petitioner's AD-Care eligibility. For the remaining analysis, only to simplify the comparison to the MDHHS budget, it will be accepted that Petitioner's gross RSDI is \$1,086.

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. There was no evidence of applicable exceptions.

AD-care income limits are 100% of the Federal Poverty Level + \$20. RFT 242 (April 2018), p. 1. The income limit for a one-person AD-Care group is \$1,061. *Id.* If Petitioner's RSDI was not being recouped, Petitioner's income would be \$25 over the income limit. Notably, the reduction in Petitioner's RSDI due to recoupment is the difference between AD-Care eligibility and ineligibility.

Given the evidence, MDHHS improperly determined Petitioner's AD-Care income-eligibility under AD-Care beginning April 2019. MDHHS will be ordered to redetermine Petitioner's AD-Care eligibility using \$1,036 as Petitioner's gross RSDI. The analysis will not consider whether MDHHS properly considered Petitioner's Group 2 eligibility (i.e. correctly calculated Petitioner's deductible) as it is established that MDHHS incorrectly calculated Petitioner's Group 1 eligibility under AD-Care.

² An SOLQ is documentation of a client's Social Security Administration (SSA) payment history.

³ There are times when MDHHS should count the recouped payment as gross income. These exceptions include when any portion of the overpayment that was excluded as income when originally issued and/or recoupment due to fraud. There was no evidence that either exception is applicable.

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 Medicaid eligibility beginning April 2019. It is ordered that MDHHS begin the following actions within 10 days of the date of mailing of this decision:

(1) Redetermine Petitioner's Medicaid eligibility, effective April 2019, subject to the finding that Petitioner's gross RSDI is \$1,036/month, barring evidence that Petitioner is required to repay SSA \$50/month due to a finding of fraud; and

(2) Issue medical benefits and/or updated notices accordingly.

The actions taken by MDHHS are **REVERSED**.

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

Via Electronic Mail
DHHS

Kimberly Kornoelje
MDHHS-Kent-Hearings

BSC4
D Smith
EQAD

Via First Class Mail
Petitioner

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