



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: August 22, 2019
MOAHR Docket No.: 19-007636
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 21, 2019, from Detroit, Michigan. Petitioner appeared and did not testify. ██████████ Petitioner's mother and guardian, testified and appeared as Petitioner's authorized hearing representative (AHR). The Michigan Department of Health and Human Services (MDHHS) was represented by Cheryl Watkins, supervisor, and Patrick Patillo, specialist.

ISSUE

The issue is whether MDHHS properly determined Petitioner's Medicaid eligibility under the Medicaid category of Disabled Adult Child (DAC)

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 April 2019, Petitioner was an ongoing recipient of Medicaid.
2. As of May 2019, Petitioner was potentially eligible to receive Medicaid under the DAC category.
3. On June 3, 2019, MDHHS terminated Petitioner's MA eligibility, beginning May 2019. Exhibit A, pp. 1-3.
4. On July 8, 2019, Petitioner's AHR requested a hearing to dispute Petitioner's obligation to pay a premium for continuing Medicaid eligibility.

5. On July 17, 2019, MDHHS approved Petitioner for Medicaid under the Freedom-to-Work (FTW) category. Petitioner had no FTW premium from May 2019 through July 2019. Beginning August 2019, Petitioner was responsible for payment of a \$49.60/month FTW premium. Exhibit A, pp. 4-5.

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's AHR requested a hearing to dispute a determination of Petitioner's Medicaid beginning May 2019. MDHHS initially terminated Petitioner's Medicaid eligibility beginning May 2019 but later approved Petitioner under the FTW category. Petitioner's AHR was unsatisfied with the approval of Medicaid under FTW due to the monthly premium obligation. Petitioner's AHR contended that Petitioner should have been considered for Medicaid under DAC.

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.*

DAC is a Supplemental Security Income (SSI)-Related MA category. BEM 158 (October 2014), p. 1. Medicaid benefits are available to a person receiving DAC Retirement, Survivors and Disability Insurance (RSDI) benefits under section 202(d) of the Social Security Act if he or she:

- (1) Is age 18 or older; and
- (2) Received SSI; and
- (3) Ceased to be eligible for SSI on or after July 1, 1987, because he became entitled to DAC RSDI benefits under section 202(d) of the Act or an increase in such RSDI benefits; and

- (4) Is currently receiving DAC RSDI benefits under section 202(d) of the Act; and
- (5) Would be eligible for SSI without such RSDI benefits. *Id.*

MDHHS testimony acknowledged that Petitioner met the above requirements. As someone meeting the above requirements, Petitioner is entitled to an income determination under the DAC category. MDHHS expressed a belief that Petitioner was considered for Medicaid under DAC and denied. The MDHHS belief seemed to assume that MDHHS' computer system, Bridges, would automatically determine Petitioner's eligibility; and because Petitioner was not approved for DAC, then he must not have been income-eligible. If MDHHS' belief was accurate, then evidence verifying Petitioner's income-eligibility should have been presented. During the hearing, MDHHS could not provide a budget or denial notice verifying that Bridges ever considered Petitioner's DAC income-eligibility.

Given the evidence, MDHHS failed to determine Petitioner's income-eligibility under DAC. The failure does not entitle Petitioner to Medicaid eligibility under DAC; Petitioner is entitled to a proper determination under DAC which should include written notice.


DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly failed to consider Petitioner's MA eligibility under DAC. It is ordered that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

- (1) Determine Petitioner's Medicaid eligibility under DAC, effective May 2019; and
- (2) Issue benefits, if any, and written notice 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

Sarina Baber
MDHHS-Washtenaw-Hearings

Via First Class Mail
Authorized Hearing Rep.

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Petitioner

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