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GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]

Date Mailed: January 21, 2020
MOAHR Docket No.: 19-012175
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, an in-person hearing was held on January 10, 2020, from East Tawas, Michigan. Petitioner appeared and was unrepresented. [REDACTED], Petitioner's case manager from [REDACTED], testified on behalf of Petitioner. The Michigan Department of Health and Human Services (MDHHS) was represented by Linda Kennedy, lead specialist, and Mary Durussel, manager.

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. At all relevant times, Petitioner was unmarried, not pregnant, and not a caretaker to minor children.
2. As of November 2019, Petitioner was an ongoing recipient of Medicaid under the category of Healthy Michigan Plan (HMP).
3. As of November 2019, Petitioner turned [REDACTED] years of age and was eligible for Medicare.

4. As of November 2019, Petitioner received the following gross monthly income: Retirement, Survivors and Disability Insurance (RSDI) of \$679 and retirement income of \$433.¹
5. As of November 2019, Petitioner had no responsibility for guardianship/conservatorship costs or remedial services. Petitioner was responsible for \$137.35 per month in insurance premiums.
6. On October 9, 2019, MDHHS determined Petitioner to be eligible for Medicaid subject to a \$751 monthly deductible beginning November 2019.
7. On an unspecified date, MDHHS determined Petitioner to be eligible for Medicaid subject to a \$631 monthly deductible beginning December 2019.
8. On [REDACTED] 2019, Petitioner requested a hearing to dispute the determination of Medicaid.

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 eligibility. A Health Care Coverage Determination Notice dated October 9, 2019, stated that Petitioner was eligible for Medicaid subject to a monthly deductible of \$751 beginning November 2019. Exhibit A, pp. 4-8. After Petitioner reported insurance premium expenses, her deductible decreased to \$613 beginning December 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

¹ Petitioner testified she had additional unearned. For purposes of this decision, only Petitioner's RSDI and pension income will be factored.

one that results in eligibility, the least amount of excess income or the lowest cost share. *Id.*

Before November 2019, MDHHS determined Petitioner was eligible for Medicaid under HMP. As of November 2019, Petitioner became eligible for Medicare and turned [REDACTED] years of age. HMP is an available Medicaid category for persons aged 19 to 64 years and not eligible for Medicare. BEM 137 (January 2019) p. 1. Due to the change in Petitioner's circumstances, MDHHS properly stopped Petitioner's Medicaid eligibility under HMP.

As of the disputed benefit month, Petitioner was aged (over [REDACTED] years of age) and disabled, not pregnant, a Medicare recipient, and not a caretaker to minor children. Given Petitioner's circumstances, she is ineligible for all MAGI-related categories. As an 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. *Id.* AD-Care is a Group 1 category. BEM 163 outlines the procedures for determining income eligibility under AD-Care.

At the time of application, Petitioner was an unmarried individual without minor children. For purposes of AD-Care, Petitioner's group size is one. BEM 211 (July 2019) p. 8.

As of the disputed benefit month, Petitioner received monthly income of \$679 from RSDI. Exhibit A, p. 8. Generally, MDHHS counts the gross amount of RSDI in determining Medicaid eligibility.² BEM 503 (October 2019), pp. 28-29. For purposes of AD-Care, Petitioner's countable RSDI is \$679.

Additionally, Petitioner received monthly income of \$433 from a pension. Petitioner testified that her net pension income is \$421.95. For retirement income, MDHHS is to count the gross benefit as unearned income. *Id.* Thus, for purposes of AD-Care, Petitioner's countable pension income is \$433 and her total countable income (RSDI + pension) is \$1,112.

MDHHS gives AD-Care budget credits for employment income, guardianship expenses, 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. Petitioner did not allege any relevant expenses.

For SSI-Related MA categories, MDHHS is to apply the deductions allowed in BEM 541 for adults. BEM 163 (July 2017) p. 2. A \$20 disregard is given for unearned income.

² Exceptions to counting gross RSDI include the following: certain former SSI recipients (e.g. disabled-adult children, 503 individuals, and early widowers), retroactive RSDI benefits, Medicare premium refunds, fee deductions made by qualified organizations acting as payee, and "returned benefits" (see BAM 500). No exceptions were applicable to the present case.

BEM 541 (July 2019) p. 3. Subtracting the \$20 disregard results in a net income of \$1,082.

Net income for AD-Care cannot exceed 100% of the federal poverty level. BEM 163 (July 2017) p. 2. The annual federal poverty level for a 1-person group in Michigan is \$12,490³. Dividing the annual amount by 12 results in a monthly income limit of \$1,041 (rounding up to nearest dollar). Petitioner's countable income of \$1,082 exceeds the AD-Care income limit of \$1,041. Thus, MDHHS properly determined Petitioner to be ineligible for Medicaid under AD-Care. As part of Petitioner's Medicaid determination, Petitioner is entitled to a determination of her eligibility under a Group 2 category.

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.*

Petitioner's gross countable income of \$1,112 is unchanged for G2S. 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 testified she had \$137.35 in monthly insurance premiums; she claimed no other relevant expenses.

A client's deductible is calculated by subtracting the protected income level (PIL) from the client's 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 \$341. RFT 240 (December 2013), p. 1.

Subtracting the PIL, insurance premiums, and \$20 disregard from Petitioner's income results in a monthly deductible of \$613 (rounding down to nearest dollar). MDHHS calculated the same deductible following Petitioner's reporting of insurance premiums.⁴ Exhibit A, p. 10. Thus, MDHHS properly determined Petitioner's Medicaid eligibility.

During the hearing, Petitioner credibly testified she suffers from post-traumatic stress disorder and anxiety. Petitioner also credibly testified that she lives in an area with few resources and has difficulties finding proper therapy without Medicaid. As discussed during the hearing, suggestions for Petitioner included calling therapists for suggestions

³ <https://aspe.hhs.gov/2019-poverty-guidelines>

⁴ For November 2019, MDHHS correctly calculated Petitioner's deductible to be \$751. This determination was made before Petitioner reported expenses for insurance premiums.

in obtaining treatment under Medicare, searching online for therapists who can provide video conferencing, and switching private insurances for a larger selection of therapists who accept Medicare.

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 \$613 monthly deductible beginning December 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 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 Email:

MDHHS-Iosco-Hearings
D. Smith
EQAD
BSC1- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

