



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED], MI
[REDACTED]

Date Mailed: September 3, 2019
MOAHR Docket No.: 19-006853
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, an in-person hearing was held on August 7, 2019, from Big Rapids, Michigan. Petitioner represented himself. The Department was represented by Kim Kilmer.

ISSUE

Did the Department of Health and Human Services (Department) properly determine Petitioner's eligibility for Medical Assistance (MA)?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner is an ongoing Medical Assistance (MA) recipient who is [REDACTED] years old and is a Medicare recipient. Exhibit A.
2. Petitioner receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$[REDACTED] Exhibit A.
3. On March 29, 2019, the Department notified Petitioner that he is eligible for Medical Assistance (MA) with a \$753 monthly deductible. Exhibit B.
4. On June 27, 2019, the Department received Petitioner's request for a hearing protesting the level of Medical Assistance (MA) he is receiving.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

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.

Persons may qualify under more than one MA category. Federal law gives them the right to the most beneficial category. The most beneficial category is the one that results in eligibility or the least amount of excess income. Department of Health and Human Services Bridges Eligibility Manual (BEM) 105 (April 1, 2017), p 2.

The Healthy Michigan Plan (HMP) provided health care coverage for individuals who are age 19-64 and do not qualify for or are not enrolled in Medicare. Department of Health and Human Services Bridges Eligibility Manual (BEM) 137 (January 1, 2019), p1.

Petitioner is over 64 years of age and is enrolled in Medicare. Therefore, Petitioner is not eligible for HMP benefits.

Health care coverage is available under the AD-CARE category of MA for individuals who are aged or disabled, and having an income not exceeding 100% of the federal poverty level. Department of Health and Human Services Bridges Eligibility Manual (BEM) 163 (July 1, 2017), p 1.

Petitioner's RSDI benefits exceed 100% of the federal poverty level, and he is not eligible for MA benefits under the AD-CARE category, which does not have a monthly deductible.

The Department determined Petitioner's eligibility under other categories that he would be eligible for. A review of Petitioner's case reveals that the Department budgeted correct amount of income received by the Petitioner. Petitioner's "protected income level" is \$████ and this amount cannot be changed either by the Department or by this Administrative Law Judge. Department of Human Services Reference Table Manual (RFT) 240 (December 1, 2013), p 1. Department's determination that the Petitioner has a \$753 deductible per month he must meet in order to qualify for MA for any medical expenses above is therefore correct.

Petitioner argued that the age guidelines of BEM 137 discriminate against him on the basis of his age in violation of federal regulations outlined in 45 CFR § 91.11, which states that no person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subject to discrimination under, any program or activity receiving Federal financial assistance.

Medicaid is a program administered by the Department, a “recipient” of Federal financial assistance, which subjects the Department to this federal regulation.

However, this section of federal regulations continues as follows:

A recipient is permitted to take an action, otherwise prohibited by § 91.11, if the action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of a program or activity.

45 CFR § 91.13.

Any age distinctions contained in a rule or regulation issued by HHS shall be presumed to be necessary to the achievement of a statutory objective of the program or activity to which the rule or regulation applies, notwithstanding the provisions of § 91.13.

45 CFR § 91.18.

States are required by the Patient Protection and Affordable Care Act (Public Law 111-148) to establish income eligibility thresholds for populations to be eligible for medical assistance under the State plan or a waiver of the plan using modified adjusted gross income and household income, but that criteria does not apply to the determination of eligibility under the State plan for individuals who have attained age 65. 42 USC § 1396a (a)(14)(D).

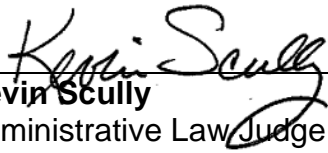
Therefore, the Department’s policy establishing age as a condition for placing individuals in categories of Medical Assistance (MA) is consistent with federal regulations and statutes, and is presumed to be necessary to the activity to which the rule or regulation applies.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it determined Petitioner’s eligibility for Medical Assistance (MA) and placed him in the most beneficial category that he is eligible for.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

KS/hb



Kevin Scully
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

Kimberly Kilmer
800 Watertower
Big Rapids, MI 49307

Mecosta County, DHHS

BSC3 via electronic mail

D. Smith via electronic mail

EQADHShearings via electronic mail

Petitioner

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[REDACTED], MI [REDACTED]