[redacted]

Date Mailed: March 8, 2019
MAHS Docket No.: 18-013976
Agency No.: [redacted]
Petitioner: [redacted]

ADMINISTRATIVE LAW JUDGE: Landis Lain

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 February 28, 2019, from Lansing, Michigan. Petitioner was represented by [redacted], Petitioner. The Department of Health and Human Services (Department or Respondent) was represented by Michelle Guzman-Merrill, Family Independence Specialist.

Respondent's Exhibit a pages 1-32 were admitted as evidence.

ISSUE

Did the Department properly determine that Petitioner had excess income for Medical Assistance (MA) benefit eligibility and a deductible spend-down?

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 was a Medical Assistance benefit recipient along with her husband, her daughter and Disabled Adult Child.

2. The Department determined that the Disabled Adult Child has his own Medical Assistance case.

3. Petitioner's daughter is 18 years of age and has a separate Medical Assistance determination.

4. On November 19, 2018, a medical case determination was completed budgeting social security income for Petitioner - $833 and her husband - $1,815, which resulted in a Medicaid Deductible.

5. On November 19, 2018, the Department sent Petitioner a Health Care Coverage Determination Notice which indicated that Petitioner and her husband would be eligible to receive Medical Assistance with a monthly deductible of $1,892 and the department also cancelled Petitioner's Medicare cost sharing program.

6. On December 28, 2019, Petitioner filed a request for hearing to contest the Department's negative action.

7. On January 16, 2019, the Michigan Administrative Hearing System received the Hearing summary and attached documents from the Department.

8. Petitioner's 20-year-old son has an open Medical Assistance Program case under the Disabled Adult Child Medical Assistance Program (Ticket #BR-0450249 – case number 127221554).

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance has been denied. MAC R 400.903(1). Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

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.

Michigan provides MA eligible clients under two general classifications: group 1 and group 2 MA. Petitioner qualified under the group 2 MA classification which consists of clients whose eligibility results from the state designating certain types of individuals as

medically needy. PEM 105. In order to qualify for group 2 MA, a medically needy client must have income as equal to or less than the basic protected monthly income level.

Department policy sets forth a method for determining the basic maintenance level by considering:

1. Protected income level.
2. The amount deferred to dependent.
3. Health insurance premiums
4. Remedial services if determining the eligibility for claimants in Adult Care Homes.

If Petitioner's income exceeds the protect income level, the excess income must be used to pay medical expenses before group 2 MA coverage can begin. This process is known as a spend-down. The policy requires the Department to count and budget all income received that is not specifically excluded. There are 3 main types of income: countable earned, countable unearned, and excluded. Earned income means income received from another person or organization or from self-employment for duties that were performed for remuneration or profit. Unearned income is any income that is not earned. The amount of income counted maybe more than the amount a person actually receives, because it is the amount before deductions are taken including the deductions for taxes and garnishments. The amount before any deductions are taken is called a gross amount. BEM, item 500, p. 1.

In the instant case, the Department calculated Petitioner's income based upon receipt of unearned income form Social Security Disability.

Federal regulations at 42 CFR 435.831 provides standards for the determination of the MA monthly protected income level. The department is in compliance with the program reference manual, tables, charts, schedules, table 240-1.

On January 11, 2019, the Department generated a Medical Assistance budget and determined that Petitioner had a gross monthly income of $2,648 (Petitioner's Social Security of $833 + Petitioner's husband's Social Security of $1,815).

Petitioner's gross monthly income was determined to be $2,648. Petitioner was given the $20.00 unearned income general exclusion for net income of $2,628. Petitioner was given a deduction of $268 for insurance premiums and was left with countable income of $2,360. The protected income limit for a two-person household in Petitioner's circumstances is $541.00; $2,360.00 – $541.00 = $1,819.00 which left Petitioner with a deductible of $1,819.00 per month in Medicaid deductible spend down. Petitioner's income has changed after January 31, 2019, because of cost of living increase in Social Security Income which may change the deductible spend down in the future.

Deductible spend-down is a process which allows the customer's excess income to be eligible for group 2 MA if sufficient allowable medical expenses are incurred. BEM, item

545, p. 1. Meeting the deductible spend-down means reporting and verifying allowable medical expenses that equal or exceed the spend-down amount for the calendar month tested. BEM, item 545, p. 9. The group must report expenses on the last day of the third month following the month it wants MA coverage for. BEM, Item 130 explains verification and timeliness standards. BEM, Item 545, p. 9.

The Department's determination that Petitioner has deductible spend-down in the amount of $1,819 per month for the time period of December 1, 2018-December 31, 2018, is correct based upon the information contained in the file.

The Health Care Determination Notice indicates that the spend down is $1,892 per month based on increase in income for Petitioner and her spouse. Petitioner's monthly Social Security Income increased December 1, 2018, to $856 and her spouse's income increased to $1,865, which explains the rise in the spend-down to $1,892 ongoing.

Petitioner's allegation of the spend-down is too expensive and unfair because of other expenses is a compelling equitable argument to be excused for the Department's program policy requirements. This Administrative Law Judge has no equity powers. A review of Petitioner's case reveals that the Department budgeted the correct amount of income earned by Petitioner. Petitioner's protected income level and amounts are set by Medicaid policy and cannot be changed by the Department or this Administrative Law Judge.

Petitioner also alleges that her family received Medical Assistance under the Flint Water Group eligibility.

Flint Water Group coverage is available to any individual under the age of 21, pregnant women, and children born to pregnant women who have been served by the Flint water system from April 2014 to the time the water is deemed safe by the proper authorities.

An individual was served by the Flint water system if he or she consumed water drawn from the Flint water system and:

- resided in a dwelling connected to the Flint water system,
- had employment by an entity served by the Flint water system,
- received child care or education in a dwelling/structure connected to the Flint water system.

Household income cannot exceed 400% of Federal Poverty Level (FPL).

MAGI-based income methodologies are used in calculating household income.

Individuals in this group cannot be otherwise eligible for or enrolled in any other Medicaid group.

There are no premiums associated with the Flint Water Group.

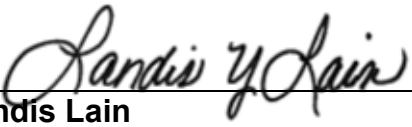
All eligibility factors must be met in the calendar month being tested. BEM 148, page 1

Neither Petitioner nor her spouse qualify for Medical Assistance under the Flint Water Group Medical Assistance category pursuant to Department policy.

Therefore, this Administrative Law Judge finds the Department has established by the necessary competent, material and substantial evidence on the record that it acted in accordance with Department policy when determined Petitioner has excess income for purposes of Medical Assistance benefit eligibility and when it determined that Petitioner has a monthly $1,819.00 deductible spend-down that Petitioner must meet in order to qualify for Medicaid for any medical expenses. The Department's action must be upheld.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



LL/hb

Landis Lain
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 Administrative Hearing System (MAHS).

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

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

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

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

DHHS

Pam Farnsworth
903 Telegraph
Monroe, MI 48161

Monroe County, DHHS

BSC4 via electronic mail

D. Smith via electronic mail

EQADHShearings via electronic mail

Petitioner

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