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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 13, 2019  
MOAHR Docket No.: 19-006357  
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 did not appear for the hearing. ██████████ Petitioner's sister, testified on behalf of Petitioner. ██████████ of PsyGenics Inc. participated as Petitioner's authorized hearing representative (AHR). The Michigan Department of Health and Human Services (MDHHS) was represented by Jennifer Cole, lead specialist.

### **ISSUE**

The issue is whether MDHHS properly processed Petitioner's Medicaid eligibility under the 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. On March 15, 2018, MDHHS determined Petitioner met the non-income qualifications to receive Medicaid under DAC.
2. As of January 2019, Petitioner received full Medicaid (i.e., Medicaid without a deductible).
3. As of February 2019, Petitioner received \$840.26 in benefits from the Department of Veterans Affairs. Exhibit A, p. 14.

4. As of February 2019, Petitioner received \$1,584 in DAC-related Retirement, Survivors, and Disability Insurance (RSDI).
5. On June 10, 2019, MDHHS determined Petitioner to be eligible for Medicaid subject to a \$1,850/month deductible in February 2019 and March 2019. Beginning April 2019, MDHHS determined Petitioner eligible for Medicaid subject to a deductible of \$1,893 beginning April 2019.
6. On June 11, 2019, Petitioner's AHR requested a hearing to dispute Medicaid eligibility. Exhibit A, pp. 2-3.

### **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 change in Petitioner's Medicaid coverage from full Medicaid to Medicaid subject to a deductible. A Health Care Coverage Determination Notice dated June 10, 2019, stated that Petitioner was eligible for Medicaid subject to a deductible beginning February 2019. Exhibit A, pp. 19-20.

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.*

MDHHS determined Petitioner was eligible for the Supplemental Security Income (SSI)-related Medicaid category of DAC on March 15, 2018. Exhibit A, p. 9. The only dispute concerned Petitioner's income-eligibility under DAC.

MDHHS is to exclude all DAC-related RSDI benefits for the person whose DAC eligibility is being determined. BEM 158 (October 2014), p. 3. MDHHS is to count any RSDI benefits that are not related to DAC. *Id.* Income eligibility exists when net income does not exceed the special protected income level in RFT 245. *Id.* Income eligibility cannot be established with a patient-pay amount or by meeting a deductible. *Id.*

Petitioner received two sources of monthly income. As of the disputed benefit month, Petitioner received \$840.26 in veteran benefits and \$1,584 in RSDI. MDHHS testimony acknowledged that Petitioner's RSDI was under DAC; thus, Petitioner's RSDI is not countable under DAC.

MDHHS's case presentation claimed that RSDI was not factored in determining Petitioner's Medicaid eligibility but a DAC budget was not presented to verify the claim. Instead, MDHHS presented a Group-2-Spenddown (G2S) budget in which Petitioner's countable income was \$2,424. Presumably, MDHHS counted Petitioner's veteran income (\$840) and RSDI (\$1,584) in calculating Petitioner's eligibility. It is possible that MDHHS only counted RSDI in determining Petitioner's eligibility under G2S after excluding RSDI in determining DAC eligibility. Without a DAC budget, it cannot be known whether MDHHS counted Petitioner's RSDI. Given the limited evidence, it will be assumed that MDHHS did not properly exclude Petitioner's RSDI in determining Petitioner's eligibility under DAC. To remedy the possible error, MDHHS will be ordered to redetermine Petitioner's DAC eligibility and to disregard her RSDI.

Even without a budget, DAC eligibility could be determined if sufficient evidence of all eligibility factors was presented; unfortunately, it was not. Petitioner's countable income for purposes of DAC is \$840/month. The income limits for DAC depend on living arrangement and marriage status - neither of which are known. If Petitioner was single and living independently, the DAC income limit is \$771. RFT 245 (January 2019), p. 1; Petitioner would not be eligible for DAC under such a circumstance. If Petitioner resided in a home for the aged, the income limit increases to \$951/month. Another relevant factor is guardianship. Petitioner's sister testified that she is Petitioner's guardian. If Petitioner had guardianship expenses, Petitioner is entitled to an \$83 budget credit. BEM 541 (January 2019), p. 3. Notably, if Petitioner is single and lives independently, the guardianship credit could be the difference between Medicaid eligibility and a large deductible. To help MDHHS accurately evaluate Petitioner's DAC eligibility, the below order references guardianship expenses as a possible budget credit.

### **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 eligibility for Medicaid 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) Redetermine Petitioner Medicaid eligibility under DAC beginning February 2019 subject to the following findings:

- a. Petitioner's RSDI is not countable if received under DAC;
- b. Petitioner may be entitled to a budget credit for guardianship expenses;  
and

(2) Issue notice and update Petitioner's Medicaid eligibility 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**

Deborah Little  
MDHHS-Wayne-49-Hearings

BSC4  
D Smith  
EQAD

Via First Class Mail  
**Authorized Hearing Rep.**

[REDACTED]  
[REDACTED]  
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**Petitioner**

[REDACTED]  
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