



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LANSING

ORLENE HAWKS  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED], MI [REDACTED]

Date Mailed: March 12, 2019  
MAHS Docket No.: 19-000496  
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, telephone hearing was held on February 27, 2019, from Lansing, Michigan. Petitioner represented herself. The Department was represented by Gregory Folson.

**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. On [REDACTED], 2018, the Department received Petitioner's application for Medical Assistance (MA). Exhibit A, pp 3-16.
2. Petitioner is a Medicare recipient. Exhibit A, p 9.
3. Petitioner receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$932. Exhibit A, p 6.
4. Petitioner receives monthly pension payments in the gross monthly amount of \$102.91. Exhibit A, p 17.
5. On October 4, 2018, the Department notified Petitioner that she was approved for Medical Assistance (MA) with a \$606 monthly deductible. Exhibit A, pp 18-21.

6. On January 10, 2019, the Department received Petitioner's request for a hearing. Exhibit A, p 24.

### **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).

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. The Michigan Administrative Hearing System (MAHS) may grant a hearing for any of the following:

- Denial of an application and/or supplemental payments.
- Reduction in the amount of program benefits or service.
- Suspension or termination of program benefits or service.
- Restrictions under which benefits, or services are provided.
- Delay of any action beyond standards of promptness.
- For FAP only, the current level of benefits or denial of expedited service. Department of Human Services Bridges Administrative Manual (BAM) 600 (January 1, 2018), pp 3-4.

A request for hearing must be in writing and signed by the claimant, petitioner, or authorized representative. Rule 400.904(1). Moreover, the Department of Human Services Bridges Administrative Manual (BAM) 600 (January 1, 2018), p 6, provides in relevant part as follows:

The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received anywhere in DHS within the 90 days.

On October 4, 2018, the Department notified Petitioner that she was approved for MA benefits. Petitioner is entitled to a hearing protesting the level of MA benefits she was approved for including the requirement that she meet a monthly deductible to activate her medical coverage.

However, Petitioner's request for a hearing was not received within 90 days of the date the Department's eligibility notice was mailed to her. Therefore, Petitioner's hearing request is untimely, and dismissal of her hearing request is appropriate.

However, in the alternative to dismissal, this Administrative Law Judge will examine the Department's actions to determine if there was compliance with policy.

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.

On [REDACTED], 2018, the Department received Petitioner's application for MA benefits.

Petitioner is enrolled in Medicare, and therefore, she is not eligible for "full Medicaid" under the Health Michigan Plan (HMP). Department of Health and Human Services Bridges Eligibility Manual (BEM) 137 (April 1, 2018), p 1.

Petitioner receives a gross monthly income of \$1,034, which is 102% of the federal poverty level. Since Petitioner's gross monthly income exceeds the federal poverty level, she is not eligible for "full Medicaid" under the AD-CARE program.

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 \$408, 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 \$606 deductible per month she must meet in order to qualify for MA for any medical expenses above is therefore correct.

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 her in the most beneficial category that she is eligible for.

**DECISION AND ORDER**

Accordingly, the Department's decision is AFFIRMED.

KS/dh



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**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 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**

Mark Epps  
4809 Clio Road  
Flint, MI 48504

Genesee County, DHHS

BSC2 via electronic mail

EQAD via electronic mail

D. Smith via electronic mail

**Petitioner**

[REDACTED]  
MI [REDACTED]