



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

ORLENE HAWKS  
DIRECTOR

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

Date Mailed: May 20, 2019  
MOAHR Docket No.: 19-003044  
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, a telephone hearing was held on May 2, 2019, from Detroit, Michigan. Petitioner appeared and was unrepresented. [REDACTED] Petitioner's spouse (hereinafter "Spouse") testified on behalf of Petitioner. The Michigan Department of Health and Human Services (MDHHS) was represented by Karen Smalls, supervisor, and Valerie Davis, specialist.

### **ISSUE**

The issue is whether MDHHS properly determined Petitioner's and Spouse'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. As of January 2019, Petitioner and Spouse were ongoing recipients of full Medicaid.
2. As of January 2019, Petitioner and Spouse were married, Medicare recipients, disabled, and caretakers to minor children.
3. As of March 2019, Petitioner received Retirement, Survivors and Disability Insurance (RSDI) of \$ [REDACTED] month. Spouse received RSDI of \$ [REDACTED] month, and Child received RSDI of \$ [REDACTED] month.

4. On January 29, 2019, MDHHS determined that Petitioner was eligible for Medicaid subject to a \$[REDACTED] month deductible and Spouse was eligible for a \$[REDACTED] month deductible; both actions were to be effective March 2019.
5. On an unspecified later date, MDHHS determined that Petitioner was eligible for Medicaid subject to a \$[REDACTED] month deductible and Spouse was eligible for a \$[REDACTED] month deductible; both actions were to be effective March 2019. Exhibit A, pp. 14-15.
6. On March 18, 2019, Petitioner 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 requested a hearing to dispute a determination of Medicaid beginning March 2019 for herself and Spouse. A Health Care Coverage Determination Notice dated January 29, 2019, stated that Petitioner was eligible for a \$[REDACTED] month deductible and Spouse was eligible for a \$[REDACTED] month deductible. An analysis of whether MDHHS properly determined Petitioner's and Spouse's Medicaid eligibility requires consideration of Petitioner's and Spouse's potential Medicaid categories.

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.*

As of March 2019, Petitioner and Spouse were caretakers to minor children and disabled. Thus, each is potentially eligible for various MAGI-related and SSI-related MA

categories. As Medicare recipients; neither are entitled to receive Medicaid through Healthy Michigan Plan. BEM 137 (January 2019) p. 1.

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.* The Group 1 Medicaid category with the highest known income limit for which Petitioner and Spouse could be eligible is AD-Care. AD-Care is a Group 1 category. BEM 163 outlines the procedures for determining income eligibility under AD-Care.

Determining AD-Care income eligibility begins with factoring the group's income. As of the disputed benefit month, Petitioner received \$ [REDACTED] month and Spouse received RSDI of \$ [REDACTED] month. Thus, the group's total income is \$ [REDACTED] month.

MDHHS gives AD-Care budget credits for employment income, guardianship 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. The present case concerns March 2019 eligibility; thus, a COLA budget credit applies. The COLA received by Petitioner and Spouse is not known, but a favorable estimate for Petitioner and Spouse would be \$100. Subtracting the favorable estimate of COLA from Petitioner's and Spouse's combined RSDI results in a countable income of \$ [REDACTED] month.

AD-care income limits are 100% of the Federal Poverty Level + \$20. RFT 242 (April 2018) p. 1. The income limit for a two-person AD-Care group is \$1,391.67. *Id.* Petitioner's and Spouse's countable income exceeds the AD-Care income limit. Thus, Petitioner and Spouse are not eligible for Medicaid through AD-Care and MDHHS properly did not approve Petitioner or Spouse for Medicaid through AD-Care.

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.*

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.*

For aged/disabled persons, G2S is the applicable Group 2 Medicaid category. For G2S, the group's gross RSDI is counted. Thus, Petitioner's and Spouse's countable income for purposes of G2S is again \$ [REDACTED]

The G2S budget allows a \$20 disregard for unearned income, various earned income disregards, and COLA. The G2S budget also factors ongoing medical expenses (which

are applied toward a deductible), insurance premiums, and remedial services. MDHHS factored \$ [REDACTED] for insurance premiums and \$68 in COLA (see Exhibit A, pp. 14-15).

A client's deductible is calculated by subtracting the protected income level (PIL) from the MA 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 \$541. RFT 240 (December 2013), p. 1. Subtracting the PIL, insurance premium, COLA, and \$20 disregard from Petitioner's and Spouse's countable income results in a monthly deductible of \$ [REDACTED]

MDHHS calculated a lower deductible by determining Petitioner's and Spouse's Medicaid eligibility under G2C. BEM 536 outlines the following 16 step procedure for determining a client's income for purposes of G2C eligibility:

- Step 1 Determine countable employment income using BEM 500 and BEM 530.
  - Step 2 Deduct \$90 from each member's employment income
  - Step 3 Subtract \$30 + 1/3 of a group member's employment income if the person received FIP or LIF benefits in any one of the four previous months.
  - Step 4 Subtract \$200 from any remaining employment income if member has dependent care expenses.
  - Step 5 Determine countable child support income using BEM 500 and BEM 530.
  - Step 6 Subtract \$50 for countable child support income.
  - Step 7 Determine countable unearned income using BEM 500 and BEM 530.
  - Step 8 Add countable earned and unearned income
  - Step 9 Subtract child support paid by a group member (not to exceed the monthly obligation).
  - Step 10 Subtract \$83 if client has court-appointed guardian paid by a group member. The result is the group's total net income.
  - Step 11 Determine the number of dependents. A spouse and children under 18 are dependents.
  - Step 12 Add 2.9 to the number of dependents to determine the prorated divisor.
  - Step 13 Divide the prorated divisor into each group member's income to determine each member's prorated share of income.
- Steps 14-16 Applicable for non-parent caretakers.

For purposes of G2C, Petitioner's countable income is \$ [REDACTED] month and Spouse's income is \$ [REDACTED] month. Child support is not applicable. The dependents for Petitioner and Spouse are 2 (1 for having a spouse and 1 for a child under 18). Dividing the prorated divisor of 4.9 (2.9 + 2 dependents) into each member's income creates a prorated income of \$ [REDACTED] for Petitioner and \$ [REDACTED] for Spouse. The adult's net income for purposes of G2C is calculated by adding the following:

- 2.9 x adult's prorated income (if adult has dependents)
- 3.9 x spouse's prorated income
- Prorated share of adult's income

For Petitioner, the total net income is \$ [REDACTED] (\$ [REDACTED] + \$ [REDACTED] + \$ [REDACTED] For Spouse the total net income is also \$ [REDACTED] (\$ [REDACTED] + \$ [REDACTED] + \$ [REDACTED]

G2C allows subtractions for insurance premiums, remedial services, and COLA. The PIL is then also subtracted to determine the group's deductible. For Petitioner, subtractions include insurance premiums of \$ [REDACTED] \$ [REDACTED] PIL, and \$ [REDACTED] COLA resulting in a deductible of \$ [REDACTED] For Spouse, the same subtractions apply other than an \$ [REDACTED] increase in COLA thereby creating a slightly lower deductible of \$ [REDACTED] The same deductibles were calculated by MDHHS. Given the evidence, MDHHS properly determined Petitioner's and Spouse's Medicaid eligibility.

### DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly determined Petitioner's Medicaid eligibility effective March 2019 as Medicaid subject to a \$ [REDACTED] month deductible. MDHHS also properly determined Spouse's Medicaid eligibility as Medicaid subject to a \$ [REDACTED] month deductible beginning March 2019. The actions taken by MDHHS are **AFFIRMED**.

CG/jaf

*Christian Gardocki*

**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

**DHHS**

Linda Gooden  
MDHHS-Oakland-6303-Hearings

**Petitioner**

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

BSC4  
D Smith  
EQAD