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GOVERNOR

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

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DIRECTOR

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Date Mailed: July 1, 2019
MOAHR Docket No.: 19-005355
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 June 27, 2019, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Valarie Foley, hearing facilitator.

ISSUE

The issue is whether MDHHS properly determined Petitioner's Medical Assistance (MA) eligibility beginning June 2019.

FINDINGS OF FACT

The administrative law judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. At all relevant times, Petitioner was unmarried, a recipient of Medicare, and not a caretaker to minor children.
2. As of June 2019, Petitioner received monthly Retirement, Survivors and Disability Insurance (RSDI) of \$1,334/month.
3. On May 13, 2019, MDHHS determined Petitioner to be eligible for Medicaid subject to an \$867/month deductible for the period from February 1, 2019 through February 25, 2019.¹

¹ The notice also stated that Petitioner was eligible for Medicaid from February 26, 2019, through February 28, 2019, and for May 2019. Presumably, the periods when Petitioner was eligible for Medicaid was due to meeting his deductible by submitting medical expenses.

4. On an unspecified date, MDHHS determined Petitioner was eligible for Medicaid subject to a deductible of \$939/month.
5. On May 20, 2019, Petitioner requested a hearing to dispute the ongoing determination of Medicaid eligibility.

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 Medicaid eligibility. A Health Care Coverage Determination Notice dated May 13, 2019, stated that Petitioner was eligible for Medicaid subject to a \$867 monthly deductible in February 2019. Exhibit A, pp. 7-8. On or shortly after May 13, 2019, MDHHS determined Petitioner was eligible for Medicaid subject to a \$939/month deductible beginning June 2019.

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 the hearing date, Petitioner was disabled and/or aged, not pregnant, a Medicare recipient, and not a caretaker to minor children. Given the evidence, Petitioner is ineligible for all MAGI-related categories. As a disabled and/or aged individual, Petitioner is potentially eligible for Medicaid through the SSI-related category of AD-Care.

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.* 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 a client's income. As of the disputed benefit month, Petitioner received \$1,334/month in RSDI.

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. Petitioner did not allege any relevant expenses.

AD-care income limits are 100% of the Federal Poverty Level + \$20. RFT 242 (April 2019), p. 1. The income limit for a one-person AD-Care group is \$1,061. *Id.* Petitioner's countable income exceeds the AD-Care income limit; and therefore, Petitioner is not eligible 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.* For aged/disabled persons, G2S is the applicable Group 2 Medicaid category.

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 G2S, a client's gross RSDI is counted. Thus, Petitioner's countable income for purposes of G2S is \$1,334.

The G2S budget allows a \$20 disregard for unearned income and various earned income disregards. The G2S budget also factors ongoing medical expenses (which are applied toward a deductible), insurance premiums, and remedial services. No expenses were applicable.

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 \$375 (see RFT 240 (December 2013), p. 1).

Subtracting the PIL and \$20 disregard from Petitioner's countable income results in a monthly deductible of \$939. MDHHS calculated the same deductible (see Exhibit A, p. 9).

Petitioner's hearing request stated that a \$150/month deductible was reasonable given his income and expenses. Petitioner testified that he paid for vehicle insurance, gas, and had other expenses. Petitioner also submitted a letter indicating that he has a student loan. Exhibit 1, p. 1. Petitioner also testified that he has \$4,513.32 in unpaid medical expenses. Petitioner's testimony implied that his expenses should be factored

in the Medicaid determination. As stated above, only allowable expenses may be considered in the determination of Medicaid eligibility; vehicle expenses are not among the allowable expenses. Petitioner's outstanding medical expenses can be used to meet his deductible but do not otherwise affect the amount of deductible. Given the evidence, MDHHS properly determined Petitioner to be eligible for a \$939/month deductible beginning June 2019.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly determined Petitioner to be eligible for Medicaid subject to a \$939/month deductible beginning June 2019. The actions taken by MDHHS are **AFFIRMED**.

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

DHHS

Susan Noel
MDHHS-Wayne-19-Hearings

Petitioner

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