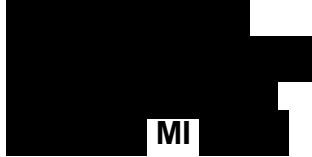




GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR



Date Mailed: March 5, 2020
MOAHR Docket No.: 19-013583
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 3-way telephone hearing was held on February 6, 2020, from Detroit, Michigan. Petitioner did not participate in the hearing. Petitioner's sister and guardian, [REDACTED], participated as Petitioner's authorized hearing representative (AHR). [REDACTED] case manager from [REDACTED], and [REDACTED] support coordinator from [REDACTED], testified on behalf of Petitioner. The Michigan Department of Health and Human Services (MDHHS) was represented by Candice Bennis, hearings facilitator, and Carolyn Begley, hearing facilitator.

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 [REDACTED] 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 monthly benefits from the Department of Veterans Affairs.

4. As of February 2019, Petitioner received \$1,584 per month in DAC-related Retirement, Survivors, and Disability Insurance (RSDI).
5. On [REDACTED] 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.
6. On June 11, 2019, Petitioner's AHR requested a hearing to dispute Medicaid eligibility from February 2019. Exhibit A, pp. 2-3.
7. On August 7, 2019, an administrative hearing was held concerning Petitioner's Medicaid eligibility from February 2019.
8. On August 12, 2019, an administrative hearing decision ordered MDHHS to redetermine Petitioner's Medicaid eligibility under DAC, beginning February 2019, subject to findings that Petitioner's RSDI was to be excluded, and a budget credit for guardianship expenses was to be considered.
9. On [REDACTED] 2019, MDHHS determined Petitioner was eligible for Medicaid beginning September 2019 subject to a \$1,893 monthly deductible. The determination did not factor guardianship expenses. Petitioner's living arrangement was not known.
10. On December 23, 2019, Petitioner's AHR again requested a hearing disputing Petitioner's 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's AHR requested a hearing to dispute Petitioner's Medicaid eligibility. A specific month of eligibility was not stated within the hearing request. Petitioner's AHR's dispute stemmed from a previous dispute which was addressed by an administrative hearing decision.

On August 7, 2019, an administrative hearing was held regarding Petitioner's Medicaid eligibility under DAC from February 2019. The undersigned presided over the hearing. In that hearing, MDHHS failed to present a DAC budget, or other sufficient evidence, justifying the denial of Petitioner's DAC eligibility. A partial DAC budget was pieced together from the evidence. Notably, MDHHS provided no evidence concerning Petitioner's living arrangement and guardianship expenses. In a Hearing Decision dated August 12, 2019, MDHHS was ordered to redetermine Petitioner's income-eligibility under DAC beginning February 2019. In redetermining Petitioner's eligibility, MDHHS was ordered to specifically examine Petitioner's eligibility for a guardianship credit, and to exclude Petitioner's DAC-related RSDI.

In the present case, there was no evidence that MDHHS redetermined Petitioner's DAC eligibility from February 2019. The only evidence of an updated determination of Petitioner's DAC eligibility was a notice dated September 26, 2019, stating that Petitioner was eligible for Medicaid in September 2019, subject to a \$1,893 liability to an unspecified provider. In the previous hearing, MDHHS determined Petitioner was eligible for Medicaid beginning April 2019 subject to a \$1,893 monthly deductible. Given the identical deductibles, it can be inferred that MDHHS continued to deny Petitioner's Medicaid eligibility under DAC due to excess income. Thus, as it was in the Hearing Decision dated 8/12/19, Petitioner's DAC eligibility will be examined.

For DAC eligibility, MDHHS is to determine countable income according to MA policies in BEM 500 and 530 except for DAC-related RSDI. BEM 158 (October 2014), p. 3 MDHHS is to exclude the income in determining DAC eligibility. *Id.* Deductions from BEM 541 are to be applied to the client's countable income. Such deductions include an \$83 budget credit for guardianship expenses. BEM 541 (January 2019), p. 3. Income eligibility for DAC exists when net income does not exceed the special protected income level in RFT 245.

The income limit for DAC depends on a client's living arrangement and marital status. Unmarried clients in independent living arrangement have an income limit of \$771. RFT 245 (January 2019), p. 1. Unmarried clients living in the household of another have an income limit of \$514. *Id.*

The hearing held on February 6, 2020, felt like déjà vu. Like the previous hearing, MDHHS was unable to present a DAC budget; thus, again, it was left to the undersigned to patch a budget from the evidence. During the hearing, MDHHS was asked whether Petitioner was given an \$83 credit for guardianship expenses; again, MDHHS could not state whether Petitioner was issued a credit or why she would not be eligible for the credit. During the hearing, MDHHS was asked if Petitioner was denied DAC based on an income limit of \$771 or \$514; again, MDHHS could not state which income limit was used to deny Petitioner eligibility under DAC.

If Petitioner were ineligible for DAC regardless of a guardianship credit or living arrangement, MDHHS' rejection of DAC for Petitioner could be affirmed. As it happens, Petitioner's guardianship credit and living arrangement are pivotal. If Petitioner was

eligible for a guardianship credit, \$83 would be subtracted from Petitioner's countable gross monthly veteran benefits of \$840.26. the result would be a countable income of \$757.26 for Petitioner. If an independent living arrangement were applied, Petitioner would be eligible for DAC because her countable income falls below the \$771 income limit. RFT 245 (January 2019) p. 1. Petitioner would be above the income limit of \$514 for DAC when applying a living arrangement of living in another's household. *Id.*

Given the evidence, MDHHS failed to establish that Petitioner was ineligible for DAC beginning February 2019. Once again, MDHHS will be ordered to redetermine Petitioner's eligibility. Again, in redetermining DAC eligibility, MDHHS should pay special attention to Petitioner's eligibility for a guardianship expense and Petitioner's living arrangement.

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;
 - b. MDHHS failed to establish that Petitioner is not eligible for a guardianship credit;
 - c. MDHHS failed to establish Petitioner's living arrangement, and therefore, that the proper income limit for DAC was applied; and
- (2) Issue notice and update Petitioner's Medicaid eligibility accordingly.

The actions taken by MDHHS are **REVERSED**.

CG/cg



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 Email:

MDHHS-Wayne-49-Hearings
D. Smith
EQAD
BSC4- Hearing Decisions
MOAHR

**Authorized Hearing Rep. –
Via First-Class Mail:**

[REDACTED]
[REDACTED], MI [REDACTED]

**Petitioner –
Via First-Class Mail:**

[REDACTED]
[REDACTED], MI [REDACTED]