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GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]

Date Mailed: March 6, 2020
MOAHR Docket No.: 20-000352
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, an in-person hearing was held on February 27, 2020, from Detroit, Michigan. Petitioner testified and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Kyle Williams, specialist.

ISSUES

The first issue is whether MDHHS properly determined Petitioner's Medicaid eligibility.

The second issue is whether MDHHS properly determined Petitioner's Medicare Savings Program (MSP) 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. On [REDACTED] 2019, Petitioner applied for medical benefits. Exhibit A, pp. 6-9.
2. As of December 2019, Petitioner was disabled, unmarried, not a caretaker to minor children, and a recipient of Medicare.
3. As of December 2019, Petitioner received gross Retirement, Survivors and Disability Insurance (RSDI) of \$1,295.

4. On December 30, 2019, MDHHS determined Petitioner was eligible for Medicaid subject to a \$755 per month deductible. Exhibit A, pp. 10-12.
5. On an unspecified date, MDHHS determined that Petitioner was eligible for MSP under Additional Low Income Beneficiaries (ALMB).
6. On January 2, 2020, Petitioner requested a hearing to dispute his "QMB Medicaid" eligibility. Exhibit A, pp. 3-4.

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. Petitioner applied for Medicaid on [REDACTED] 19. Exhibit A, pp. 6-9. Petitioner may have been receiving Medicaid at the time of application, but this was not certain. A Health Care Coverage Determination Notice stated that Petitioner was eligible for Medicaid subject to a \$755/month deductible. Exhibit A, pp. 10-13.

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.*

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.

As of the hearing date, Petitioner was disabled and/or aged, not pregnant, a Medicare recipient, and not a caretaker to minor children. Petitioner's circumstances render him ineligible for all MAGI-related categories. As a disabled and/or aged individual, Petitioner is

potentially eligible for Medicaid under a Group 1 category only through the SSI-related category of AD-Care (aka Aged-Disabled Care). MDHHS denied AD-Care to Petitioner due to excess income.

For AD-Care, income eligibility exists when net income is within the limits in RFT 242 or 247. BEM 163 (July 2017) p. 1. MDHHS is to determine countable income according to the SSI-related MA policies in BEM 500, 501, 502, 503, 504, and 530.¹ *Id.* MDHHS is to apply the deductions in BEM 540 (for children) and 541 (for adults) to countable income to determine net income. *Id.*

As of the disputed benefit month, Petitioner received \$1,295 in gross, monthly RSDI benefits. Generally, MDHHS factors the gross amount of RSDI in determining Medicaid eligibility.² BEM 503 (April 2019), p. 28.

MDHHS gives AD-Care budget credits for employment income, and 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. No relevant expenses were alleged.

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; therefore, Petitioner is not eligible for Medicaid under AD-Care.

Petitioner may be eligible for Medicaid under a Group 2 category. For Group 2 Medicaid 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.* Clients can meet their deductible by submitting to MDHHS medical expenses which exceed the deductible amount.

As it was for AD-Care, a client's monthly gross RSDI is counted. Petitioner's countable income for purposes of G2S is \$1,295.

¹ For the benefit months of January through March, MDHHS disregards the COLA increase in RSDI.

² Exceptions to counting gross RSDI include the following: certain former SSI recipients (e.g. disabled-adult children, 503 individuals, and early widowers), retroactive RSDI benefits, Medicare premium refunds, fee deductions made by qualified organizations acting as payee, and "returned benefits" (see BAM 500). No exceptions were applicable to the present case.

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. Though Petitioner did not pay a Medicare premium in December 2019, MDHHS credited Petitioner with a \$144.60 Medicare expense.

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. RFT 240 (December 2013), p. 1.

Subtracting the PIL, Medicare premium, and \$20 disregard from Petitioner's countable income results in a monthly deductible of \$755; the same deductible was calculated by MDHHS. Thus, MDHHS properly determined Petitioner's Medicaid eligibility.³

Petitioner's hearing request cited a dispute over "QMB Medicaid". Petitioner's reference to QMB implied a dispute over MSP eligibility. It was not clear whether Petitioner intended to dispute MSP eligibility because MDHHS approved Petitioner for MSP. Petitioner's approval was for an MSP which was not QMB. Due to MDHHS not issuing MSP under QMB, Petitioner's hearing request will be interpreted as a dispute over MSP.

MDHHS approved Petitioner for MSP under ALMB. A determination of one MSP category over another is an income-based determination.

MSP programs offer three different degrees of assistance with payment toward a client's Medicare premium and deductibles. Qualified Medicare Beneficiaries (QMB) coverage pays for a client's Medicare premiums, coinsurances, and deductibles. BEM 165 (January 2018), p. 2. Specified Low Income Beneficiaries (SLMB) coverage pays for a client's Medicare Part B premium. *Id.* ALMB coverage pays for a client's Medicare Part B premium if funding is available. *Id.*

MSP is an SSI-Related category. BEM 165 (January 2019) p. 1. MDHHS is to determine countable income according to the SSI-related MA policies in BEM 500, 501, 502, 503, 504, and 530.⁴ *Id.*, p. 9. MDHHS is to apply the deductions in BEM 540 (for children) and 541 (for adults) to countable income to determine net income. *Id.* Income eligibility exists when net income is within the limits in RFT 242 or 247. *Id.*

Petitioner's net income for MSP is calculated exactly as it was for AD-Care. Petitioner's countable income for MSP is \$1,275.

The MSP net income limits for unmarried individuals are as follows: QMB- \$1,031.67 and lower, SLMB- \$1,031.68 through \$1,234, and ALMB \$1,234.01 through \$1,385.75.

³ MDHHS increased Petitioner's deductible to \$900 beginning January 2020. The increase in deductible was primarily due to correcting the credit for Petitioner's insurance premiums.

⁴ For the benefit months of January through March, MDHHS disregards the COLA increase in RSDI.

RFT 242 (April 2019) p. 1. A net income higher than \$1,031.68 would result in denial of MSP.

Petitioner's net income of \$1,275 falls within the range of income-eligibility for ALMB. Thus, MDHHS properly determined that Petitioner was eligible for MSP under ALMB, and not eligible for QMB.

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 \$755/month deductible beginning December 2019. MDHHS also properly determined Petitioner to be eligible for MSP under ALMB. The actions taken by MDHHS are **AFFIRMED**.

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-17-Hearings
D. Smith
EQAD
BSC4- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

