



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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

Date Mailed: March 10, 2020
MOAHR Docket No.: 20-000710
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 March 4, 2020, from Detroit, Michigan. Petitioner did not participate in the hearing. [REDACTED] Petitioner's mother, participated as Petitioner's authorized hearing representative (AHR). The Michigan Department of Health and Human Services (MDHHS) was represented by Starkisha Snead, specialist.

ISSUE

The issue is whether MDHHS properly determined Petitioner'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. At all relevant times, Petitioner was disabled, unmarried, a recipient of Medicare, not pregnant, and not a caretaker to minor children.
2. Before September 2019, Petitioner was an ongoing recipient of Medicaid.
3. As of [REDACTED] 2019, Petitioner received gross monthly Retirement, Survivors and Disability Insurance (RSDI) of [REDACTED].
4. As of September 2019, Petitioner was responsible for [REDACTED] in Medicare premiums. Petitioner had no guardianship costs.

5. On [REDACTED] 2019, MDHHS determined Petitioner to be eligible for Medicaid subject to a [REDACTED] monthly deductible beginning September 2019.
6. On January 15, 2020, Petitioner's AHR requested a hearing to dispute the determination of Medicaid for September 2019.

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 a determination of Petitioner's Medicaid eligibility. Exhibit A, p. 3. A Health Care Coverage Determination Notice dated November 21, 2019, stated that Petitioner was eligible for Medicaid subject to a monthly deductible of \$986 beginning September 2019. Exhibit A, pp. 5-8.

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 date of notice, Petitioner was disabled, not pregnant, a Medicare recipient, and not a caretaker to minor children. Given Petitioner's circumstances, he is ineligible for all MAGI-related categories. As a disabled and/or aged individual, Petitioner is potentially eligible for Medicaid under the SSI-related category of Aged/Disability-Care (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.

At all relevant times, Petitioner was an unmarried individual without minor children. For purposes of AD-Care, Petitioner's group size is one. BEM 211 (July 2019) p. 8.

AD-Care income eligibility factors a client's income. As of the disputed benefit month, Petitioner received gross monthly income of [REDACTED] from RSDI. Exhibit A, p. 9. Generally, MDHHS counts the gross amount of RSDI in determining Medicaid eligibility.¹ BEM 503 (April 2019), p. 28. For purposes of SSI-Related Medicaid categories, Petitioner's gross income is [REDACTED]

MDHHS gives AD-Care budget credits for employment income, guardianship expenses, 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 or credits.

For SSI-Related MA categories, MDHHS is to apply the deductions allowed in BEM 541 for adults. BEM 163 (July 2017) p. 2. A [REDACTED] disregard is given for unearned income. BEM 541 (July 2019) p. 3. Subtracting the [REDACTED] disregard results in a net income of [REDACTED]

Net income for AD-Care cannot exceed 100% of the federal poverty level. BEM 163 (July 2017) p. 2. The annual federal poverty level for a 1-person group in Michigan is \$12,490². Dividing the annual amount by 12 results in a monthly income limit of \$1,041 (rounding up to nearest dollar). The same income limit is found in policy. RFT 242 (April 2019), p. 1. Petitioner's countable income exceeds the AD-Care income limit. Thus, MDHHS properly determined Petitioner to be ineligible for Medicaid under AD-Care.

Though Petitioner is ineligible for Medicaid under a Group 1 category, Petitioner may still receive Medicaid under a Group 2 category. 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.* Petitioner's gross countable income of [REDACTED] is unchanged for G2S. The G2S budget allows a [REDACTED] disregard for unearned income and various earned income disregards. The G2S budget also factors ongoing medical expenses (which are applied toward a

¹ 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.

² <https://aspe.hhs.gov/2019-poverty-guidelines>

deductible), insurance premiums, and remedial services. MDHHS credited Petitioner with [REDACTED] in medical expenses.

A client's deductible is calculated by subtracting the protected income level (PIL) from the client's 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, medical expenses, and \$20 disregard from Petitioner's income results in a monthly deductible of \$986 (rounding down to nearest dollar). MDHHS calculated the same deductible. Exhibit A, p. 10. Thus, MDHHS properly determined Petitioner's Medicaid eligibility.

Petitioner's AHR testified that her son has Down syndrome and that he has received Medicaid for several years. Petitioner's testimony raised two considerations.

Medicaid categories other than AD-Care were considered because of Petitioner's Down syndrome. Down Syndrome is sometimes associated with eligibility under the category of Disabled Adult Child (DAC). MA benefits are available to a person receiving DAC-RSDI benefits under section 202(d) of the Social Security Act if he or she:

- (1) Is age 18 or older; and
 - (2) Received SSI; and
 - (3) Ceased to be eligible for SSI on or after July 1, 1987, because he became entitled to DAC RSDI benefits under section 202(d) of the Social Security Act or an increase in such RSDI benefits; and
 - (4) Is currently receiving DAC RSDI benefits under section 202(d) of the Act; and
 - (5) Would be eligible for SSI without such RSDI benefits.
- BEM 158 (October 2014) p. 1.

There was no evidence that Petitioner received DAC-related RSDI benefits.³ Given the evidence, Petitioner is not potentially eligible for Medicaid under DAC.

It is curious how Petitioner could have received Medicaid for several years despite current receipt of RSDI well above income limits and no evidence of drastic increases in RSDI. MDHHS indicated that Petitioner's past Medicaid eligibility was under AD-Care and not another Medicaid category. MDHHS also testified that a data exchange listed \$0 RSDI for Petitioner. Presumably, Petitioner's past Medicaid eligibility was based on MDHHS erroneously budgeting no income for Petitioner. MDHHS cannot be faulted in the present case for making the proper corrections to Petitioner's Medicaid eligibility.

³ One indicator of DAC eligibility would be a Social Security claim number containing a "C". MDHS testimony indicated that Petitioner's claim number did not have a C.

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 [REDACTED] monthly deductible beginning September 2019. 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-76-Hearings
D. Smith
EQAD
BSC4- Hearing Decisions
MOAHR

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

[REDACTED] MI [REDACTED]

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

[REDACTED] MI [REDACTED]