



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]

Date Mailed: December 4, 2020
MOAHR Docket No.: 20-006080
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 hearing was held on December 2, 2020, via telephone conference line. Petitioner participated and was unrepresented. [REDACTED] Petitioner's sister, testified on behalf of Petitioner. The Michigan Department of Health and Human Services (MDHHS) was represented by Sonoma Graham, specialist, Anna Shetler, specialist, and Jeffrey Robinson, manager

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. On [REDACTED], 2020, Petitioner applied for Medicaid benefits.
2. As of July 2020, Petitioner was unmarried, aged 65 or older, not a recipient of Medicare, not pregnant, and not a caretaker to minor children.
3. As of July 2020, Petitioner received a monthly annuity of \$[REDACTED].
4. As of July 2020, Petitioner was not responsible for guardianship or conservatorship costs, or remedial services. Additionally, Petitioner had not reported health insurance costs to MDHHS.

5. On an unspecified date, MDHHS determined that Petitioner was eligible for Medicaid subject to a monthly deductible of \$1,485 beginning July 2020.
6. On [REDACTED], 2020, 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. Exhibit A, pp. 3-4. Petitioner testified that she specifically disputed a determination of Medicaid following an application requesting health care coverage. Petitioner testified that she could not state that MDHHS incorrectly calculated her eligibility; however, she testified that her monthly expenses are significant and that she would greatly benefit from receiving Medicaid. MDHHS did not present written notice of the Medicaid determination but credibly testified that Petitioner was deemed eligible for Medicaid subject to a monthly deductible of \$1,485.¹

Medicaid is also known as Medical Assistance (MA). BEM 105 (January 2020), 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 Petitioner's application date, Petitioner was aged (65 or older), not pregnant, not a Medicare recipient, and not a caretaker to minor children. Under the circumstances, Petitioner is ineligible for all MAGI-related categories. As a disabled

¹ MDHHS also testified that notice was sent to Petitioner on September 22, 2020. Such a date of notice would be unlikely because Petitioner requested a hearing [REDACTED] days earlier.

and/or aged individual, the only SSI-related Medicaid category for which Petitioner could be eligible is 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.* Eligibility for a Group 1 category would result in issuance of full-Medicaid (i.e. Medicaid without a monthly deductible). 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 a monthly annuity of \$ [REDACTED] Exhibit A, p. 5. For all programs, annuity payments are countable unearned income. BEM 503 (July 2020) p. 4. Thus, for purposes of AD-Care, Petitioner's annuity of \$ [REDACTED] is countable.

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. No credits are applicable to the present case. For purposes of AD-Care, Petitioner's net income is \$ [REDACTED] per month.

AD-care income limits are 100% of the Federal Poverty Level + \$20. RFT 242 (April 2020) p. 1. The income limit for a one-person AD-Care group is \$1,084. *Id.* Petitioner's net countable income exceeds the AD-Care income limit; therefore, Petitioner is not eligible for Medicaid through AD-Care.

Petitioner may still be eligible for 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. BEM 105 (January 2020), p. 1 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.*

As it was for AD-Care, for G2S, a client's gross annuity is counted. Thus, Petitioner's countable income for purposes of G2S is \$ [REDACTED].

The G2S budget allows a standard \$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. COLA is applicable for the benefit months of January through March only. BEM 503

(January 2019), p. 29. Petitioner testified that she has a monthly \$253.30 cost for carrying private health insurance but admitted that she did not previously report the expense to MDHHS. MDHHS cannot be faulted for not factoring Petitioner's insurance premium if it was first reported during the hearing.² Given the evidence, Petitioner is entitled to the standard \$20 disregard.

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 \$408. RFT 240 (December 2013) p. 1.

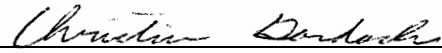
Subtracting the PIL and \$20 disregard from Petitioner's countable income results in a monthly deductible of \$1,485. MDHHS calculated the same deductible. Given the evidence, MDHHS properly determined that Petitioner is eligible for Medicaid subject to a \$1,485 monthly deductible.

² Petitioner's testimony should be considered by MDHHS to be a reported change. MDHHS should process the reporting in accordance with its policy.

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 monthly deductible of \$1,485 beginning July 2020. The actions taken by MDHHS are **AFFIRMED**.

CG/tm



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-Oakland-3Hearings
D. Smith
EQADHearings
BSC4
MOAHR

Authorized Hearing Rep.

[REDACTED]
[REDACTED]
[REDACTED]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]