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GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA
DIRECTOR

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Date Mailed: September 10, 2024
MOAHR Docket No.: 24-008115
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 hearing was held via telephone conference on August 15, 2024. Petitioner did not participate and was represented. ██████████, Petitioner's brother and caretaker, participated as Petitioner's authorized hearing representative (AHR) The Michigan Department of Health and Human Services (MDHHS) was represented by Marcella Towns, specialist.

ISSUE

The issue is whether MDHHS properly determined Petitioner's Medical Assistance (MA) 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. As of April 2024, Petitioner was an ongoing recipient of MA benefits.
2. On April 2, 2024, MDHHS received Petitioner's redetermination documents for MA which reported that Petitioner was disabled, 19-65 years of age, a Medicare recipient, not a caretaker to minor children, unmarried, and not pregnant.
3. As of April 2024, Petitioner received gross monthly Retirement, Survivors and Disability Insurance (RSDI) of \$██████████ under a claim number ending in "C".
4. On June 24, 2024, MDHHS determined that Petitioner was eligible for Medicaid subject to a \$1,130 monthly deductible beginning May 2024.
5. On an unspecified date, MDHHS updated Petitioner's deductible to \$1,120 per month.

6. As of July 9, 2024, MDHHS failed to establish that it determined whether Petitioner was eligible for MA under the category of Disabled Adult Child (DAC).
7. On July 9, 2024, Petitioner's AHR requested a hearing to dispute the determination of MA benefits.

CONCLUSIONS OF LAW

The 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. MDHHS administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MA 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 MA eligibility. Exhibit A, pp. 3-4. A Health Care Coverage Determination Notice dated June 24, 2024, stated that Petitioner was eligible for Medicaid subject to a monthly deductible of \$1,130 beginning September 2023. Exhibit A, pp. 12-17. MDHHS clarified that Petitioner's deductible has since been updated to \$1,120 per month.

Medicaid is also known as MA. BEM 105 (October 2023) p. 1. The MA 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.¹ *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.* Group 2 categories are considered a limited benefit (not limited coverage) because a deductible is possible. *Id.*

Redetermination documents dated April 2, 2024, reported that Petitioner was disabled and/or aged, at least 19 years of age, not pregnant, a Medicare recipient, and not a caretaker to minor children. Exhibit A, pp. 5-11. Given the reporting, Petitioner is ineligible for all MAGI-related categories. As a disabled and/or aged individual, Petitioner is potentially eligible to receive MA under the SSI-related category of Aged/Disability-Care (AD-Care).

¹ Eligibility factors for all MA categories may be found in BEM 105 through BEM 174.

At all relevant times, Petitioner was without minor children and did not reside with a spouse. For purposes of AD-Care, Petitioner's group size is one. BEM 211 (October 2023) p. 8.

As of the disputed benefit month, Petitioner received gross monthly income of \$[REDACTED]. (dropping cents). Exhibit A, pp. 18-20. Generally, MDHHS counts the gross amount of RSDI in determining Medicaid eligibility.² BEM 503 (January 2023) p. 29. Petitioner's countable income for AD-Care 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 budget 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 \$20 disregard is given for unearned income. BEM 541 (July 2019) p. 3. Subtracting the \$20 disregard results in countable income of \$1,670.

Net income for AD-Care cannot exceed 100% of the federal poverty level. BEM 163 (July 2017) p. 2. In 2024, the annual federal poverty level for a 1-person group in Michigan is \$15,060.³ Dividing the annual amount by 12 results in a monthly income limit of \$1,255; the same income limit is found in policy.⁴ RFT 242 (April 2023) p. 1. Petitioner's countable income exceeds the AD-Care income limit. Thus, MDHHS properly determined Petitioner to be ineligible for MA under AD-Care.

Most disabled persons are ineligible for Group 1 MA categories other than AD-Care. However, it was not disputed that Petitioner had a Social Security Administration claim number that ends in "C". Such circumstances are indicative of possible MA eligibility under the category of DAC. BEM 158 (October 2014) p. 3. MA is available to a person receiving DAC-RSDI benefits under section 202(d) of the Social Security Act if he or she meets all of the following criteria:

- Is age 18 or older;
- Received SSI;
- 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 Act or an increase in such RSDI benefits; and
- Is currently receiving DAC RSDI benefits under section 202(d) of the Act; and
- Would be eligible for SSI without such RSDI benefits. *Id.*, p. 1.

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.

³ <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>

⁴ MDHHS policy lists an income limit of \$1,275 while noting that the \$20 disregard is already factored.

Requests for DAC identification must be made through management or central specialized staff (include titles). *Id.*, p. 4. Send requests to: DHS-DAC-Determination-Mailbox@michigan.gov and include the beneficiary's name, case number, SSN, SS claim number and any other information pertaining to the request. *Id.*

Income eligibility exists when net income does not exceed the special protected income level in RFT 245. *Id.*, p. 3. For a unmarried individual living independently, the protected income level is \$943. RFT 245 (January 2024) p. 1. However, DAC-related RSDI benefits are excluded from the determination.

MDHHS presented no evidence that Petitioner was ever considered for MA under DAC. The failure by MDHHS to consider MA eligibility despite evidence of possible DAC eligibility justifies ordering MDHHS to determine Petitioner's MA eligibility under DAC.⁵

Petitioner also has potential MA eligibility under an MA Group 2 category. As stated above, MDHHS determined Petitioner was eligible for Medicaid subject to a monthly \$1,120 deductible.

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 2023) p. 1. Group 2 categories are considered a limited MA benefit because a deductible is possible. *Id.* For aged/disabled persons, G2S is the applicable Group 2 MA category (see BEM 166).

Clients with a deductible may receive MA if sufficient allowable medical expenses are incurred.⁶ 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 \$██████ is unchanged for G2S. The G2S budget allows a \$20 disregard for unearned income and various employment income disregards. The G2S budget also factors ongoing medical expenses (which are applied toward a deductible), insurance premiums, and remedial services. MDHHS credited Petitioner with \$175 (rounding up to the nearest dollar) for a monthly Medicare premium.

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 (\$375), insurance premiums (\$155), and \$20 disregard from Petitioner's countable income results in a monthly deductible of \$1,120; MDHHS

⁵ Petitioner's brother acknowledged that Petitioner may not be eligible for DAC because he believes that Petitioner never received SSI benefits.

⁶ Clients should be aware that medical expenses need only be incurred, and not necessarily paid, to meet a deductible/spenddown.

calculated the same deductible. Exhibit A, p. 18. Given the evidence, MDHHS properly determined Petitioner's MA eligibility for D-Care and Group 1 categories.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS failed to establish that Petitioner was ineligible for MA under DAC. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Reprocess Petitioner's MA eligibility beginning May 2024 subject to the finding that MDHHS failed to establish that Petitioner was evaluated for MA benefits under DAC; and
- (2) Issue notice and supplements, if any, in accordance with policy.

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

CG/pt



Christian Gardocki

Administrative Law Judge

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-Electronic Mail:

DHHS
Susan Noel
Wayne-Inkster-DHHS
26355 Michigan Ave
Inkster, MI 48141
MDHHS-Wayne-19-Hearings@michigan.gov

Interested Parties

BSC4
M. Schaefer
EQAD
MOAHR

Via-First Class Mail:

Petitioner

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Authorized Hearing Rep.

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