



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

ORLENE HAWKS
DIRECTOR

[REDACTED]
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[REDACTED] MI [REDACTED]

Date Mailed: February 27, 2019
MAHS Docket No.: 18-012570
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 25, 2019, from Detroit, Michigan. The Petitioner was self-represented and had her sister, [REDACTED], appear as both a witness and translator. The Department of Health and Human Services (Department) was represented by Richkelle Curney, Hearings Facilitator.

ISSUE

Did the Department properly determine Medical Assistance (MA) Program eligibility for Petitioner and her husband?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner received a Retirement, Survivors and Disability Insurance (RSDI) benefit of \$[REDACTED] for all of 2018; she has been a recipient of RSDI since October 2015.
2. Petitioner's husband received an RSDI benefit of \$[REDACTED] per month for all of 2018.
3. On October 11, 2018, Petitioner submitted a completed Redetermination to the Department for the Food Assistance Program (FAP), the Medical Assistance (MA) Program, and the Medicare Savings Program (MSP).
4. On October 25, 2018, the Department issued a Health Care Coverage Determination Notice (HCCDN) to Petitioner informing her that both her and her

husband were eligible for full coverage MSP, effective November 1, 2018; that her husband was eligible for MA with a deductible of \$[REDACTED] per month; and that Petitioner was not eligible for MA benefits because she was not under 21, not pregnant, not in foster care at age 18, is eligible for Medicare, and is not aged, blind, disabled, or a parent or caretaker of a dependent child.

5. On November 6, 2018, Petitioner submitted an application for MA benefits for herself, but did not request MA benefits for her husband; she also listed herself as disabled.
6. On November 21, 2018, the Department received Petitioner's request for hearing disputing the Department's determination of eligibility for Petitioner and her husband.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

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.

In this case, Petitioner disputes the denial of MA coverage for herself and the deductible for her husband.

MA is available to those who are aged or disabled. BEM 163 (July 2017), p. 1. Aged individuals are individuals who are 65 years of age or older. BEM 240 (October 2017), p. 3. Individuals receiving RSDI benefits based upon disability or blindness meet the disability criteria for MA eligibility. BEM 260 (July 2015), p. 1. Petitioner has been an RSDI recipient since October 2015 based upon her disability. Since Petitioner was not aged 65 or older at the time of her Redetermination, the Department should have been aware of her disability even if Petitioner failed to include the information on a form. Once the Department saw that Petitioner was a recipient of RSDI, the Department should have sought clarification of the basis of her receipt of RSDI. BEM 260, p. 7. Therefore, the Department's determination of MA eligibility which assumed she was not disabled was not in accordance with Department policy.

Petitioner's Husband was placed in the Group 2-Aged, Blind, Disabled MA category effective November 1, 2018, with a deductible of \$[REDACTED]

Medicaid is also known as Medical Assistance (MA). BEM 105 (April 2017), p. 1. The Medicaid program comprises several sub-programs or categories. *Id.* To receive MA under an 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.*

The parties agree that Petitioner's husband is aged [REDACTED] at the time of the Redetermination; therefore, he is potentially eligible for Ad-Care based upon his age. In determining the SSI-related MA eligibility, the Department must determine Petitioner's husband's MA fiscal group size and net income. Petitioner's husband has a group size for SSI-related MA purposes of two as he is married living with a spouse. BEM 211 (January 2016), p. 8. Petitioner's total monthly income is \$[REDACTED] and her husband's is \$[REDACTED]

The Ad-Care program, an SSI-related MA category, requires that net group income cannot exceed one hundred percent of the federal poverty level. BEM 163, pp. 1-2. The 2018 federal poverty level for a two-person household is \$16,460.00. <https://aspe.hhs.gov/2018-poverty-guidelines>. The net income limit is established through policy by subtracting \$20.00 from the amount shown in RFT 242 at \$[REDACTED] for a group of two effective April 1, 2018. RFT 242 (April 2018), p. 1. Countable income is calculated by adding the amounts of income actually received/available within the past month. BEM 530 (July 2017), p. 2. A review of the SSI-Related MA budget submitted by the Department shows that the Department properly considered Petitioner's and her husband's RSDI income. The Department then properly applied the \$20.00 general exclusion. BEM 541 (January 2018), p. 3. Therefore, Petitioner's net income is \$[REDACTED] which is greater than the net income limit and the federal poverty limit when the net income multiplied by 12. Petitioner's husband is not eligible for the full coverage Ad-Care program.

Since Petitioner's husband has excess income for eligibility under the Ad-Care program, the full coverage SSI-related MA program, an evaluation of Petitioner's husband's eligibility for MA coverage under the Group 2-Aged, Blind, Disabled (G2S) program follows. Group 2 provides MA coverage with a deductible. BEM 105, p. 1.

The deductible is the amount that the client's net income (less any allowable deductions) exceeds the applicable Group 2 MA protected income level (PIL). PIL is a set allowance for non-medical need items such as shelter, food, and incidental expenses. BEM 544 (July 2016), p. 1. It is based on the client's MA fiscal group size and the county in which the client resides. *Id.* Petitioner's husband resides in Wayne County and has a group size of two; therefore, he is in shelter area IV, and his PIL is

\$500.00. RFT 200 (April 2017), p. 3; RFT 240 (December 2013), p. 1. Thus, if Petitioner's husband's monthly net income (less allowable needs deductions) is in excess of \$500.00, Petitioner's husband is eligible for MA assistance under the G2S program with a deductible equal to the amount of income remaining after the appropriate and allowed deductions which are greater than \$500.00.

As discussed above, Petitioner's net income was \$[REDACTED]. In calculating the deductible, allowances are made for health insurance premiums paid by the medical group and remedial services. BEM 544, pp. 1-2. Petitioner's husband was provided a deduction for a Medicare Part B premium. However, the Department pays Petitioner's and her husband's Medicare Part B premium through their Medicare Savings Program coverage. Therefore, the Department erred in providing a deduction for medical insurance premiums. Since this error results in a benefit to Petitioner's husband by reducing his income and his overall deductible, this error will not be changed for purposes of this decision. No evidence was presented that Petitioner or her husband are responsible for remedial services costs. Therefore, the total net income is \$[REDACTED]. Petitioner's husband's deductible is equal to the amount of net income which exceeds the PIL of \$500, or \$[REDACTED] per month. The Department properly calculated Petitioner's husband's MA G2S deductible.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it determined Petitioner's husband's MA eligibility, but did not act in accordance with Department policy when it closed Petitioner's MA eligibility.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to the determination of Petitioner's husband's MA eligibility and deductible and **REVERSED IN PART** with respect to Petitioner's MA eligibility.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reinstate and redetermine Petitioner's MA eligibility effective November 1, 2018;
2. If otherwise eligible, issue supplements to Petitioner or on her behalf for benefits not previously received; and,

3. Notify Petitioner in writing of its decision.



AMTM/jaf

Amanda M. T. Marler
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 Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS 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. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

Tara Roland 82-17
MDHHS-Wayne-17-Hearings

Petitioner

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