



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: May 31, 2019  
MOAHR Docket No.: 19-002238  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: John Markey**

**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 May 28, 2019, from Detroit, Michigan. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by Kathleen Hopper, Assistance Payments Supervisor, and Sandrine Revol, Assistance Payments Worker. During the hearing, a 12-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-12.

**ISSUE**

Did the Department properly determine Petitioner's Medicaid (MA) benefits, effective January 1, 2019, ongoing?

**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 was an ongoing recipient of MA benefits from the Department under the full-coverage AD-Care program.
2. For all times relevant to this matter, Petitioner was receiving RSDI income of \$1,301.50 per month.
3. In November 2018, a Department worker discovered that the budget the Department used to determine Petitioner's MA benefits included an erroneous

deduction of over \$1,000 per month. That deduction substantially reduced Petitioner's countable income upon which his MA benefits were based.

4. On November 5, 2018, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that he was eligible for MA benefits subject to a \$733 monthly deductible, effective December 1, 2018. Exhibit A, pp. 7-10.
5. On February 11, 2019, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that he was eligible for MA benefits subject to a \$702 monthly deductible, effective January 1, 2019. Exhibit A, p. 5.
6. On [REDACTED] 2019, Petitioner submitted to the Department a request for hearing objecting to the determination of his MA benefits.

### **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 was an ongoing recipient of MA benefits from the Department. Before December 1, 2018, Petitioner was receiving full-coverage MA benefits from the Department under the AD-Care program. On November 5, 2018, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that effective December 1, 2018, the Department found Petitioner eligible for MA benefits under the Group 2 Medicaid (G2S) program, subject to a \$733 monthly deductible. On February 11, 2019, the Department issued another Health Care Coverage Determination Notice to Petitioner. The February 11, 2019 Notice informed Petitioner that his deductible had been reduced to \$702, effective January 1, 2019. Petitioner submitted a hearing request objecting to the Department's determination of his MA coverage.

A client's request for hearing must be in writing and signed by an adult member of the eligible group, adult child, or authorized hearing representative (AHR). BAM 600 (October 2018), p. 1. Moreover, BAM 600, p. 6 provides that a request for hearing must

be received in the Department local office within 90 days of the date of the written notice of case action. Petitioner's hearing request with respect to the November 5, 2018 Health Care Coverage Determination Notice was received on March 1, 2019, more than 90 days later. Thus, it is not timely with respect to that action. Accordingly, to the extent that the hearing request challenged the November 5, 2019 Notice, it is dismissed. It should be noted that this merely means that only MA coverage for December 2018 is not going to be addressed as the subsequent Notice involved benefits from January 1, 2019 ongoing.

However, Petitioner's request with respect to the February 11, 2019 Health Care Coverage Determination Notice was timely. As a disabled and/or aged individual, Petitioner is potentially eligible to receive MA benefits through AD-Care. AD-Care is an SSI-related full-coverage MA program. BEM 163 (July 2017), p. 1. As Petitioner lives alone, per policy, Petitioner's fiscal group size for SSI-related MA benefits is one. BEM 211 (January 2016), pp. 7-8. Petitioner's total income consists of unearned income of \$1,301.50 per month in RSDI. The Department gives AD-Care budget credits for employment income, guardianship and/or conservator expenses and cost of living adjustments (COLA) (for January through March only). BEM 163, p. 2; BEM 541 (January 2019), p. 3. Income eligibility for AD-Care exists when countable income does not exceed the income limit for the program. BEM 163, p. 2. The monthly income limit for AD-Care for a one-person MA group is \$1,025 (100 percent of the Federal Poverty Level plus the \$20 disregard for RSDI income). RFT 242 (April 2018), p. 1; BEM 541, p. 3. Because Petitioner's monthly household income substantially exceeds \$1,025, the Department properly determined Petitioner to be ineligible for MA benefits under AD-Care.

Petitioner may still be eligible for MA benefits subject to a monthly deductible through the G2S program. G2S is an SSI-related MA category. BEM 166 (April 2017), p.1. As stated above, Petitioner's SSI-related MA group size is one. Petitioner's net income is \$1,281.50 (gross income reduced by a \$20 disregard). BEM 541, p. 3.

The deductible is the amount that the client's net income (less any allowable needs deductions) exceeds the applicable G2S protected income levels (PIL); the PIL is based on the client's MA fiscal group size and the county in which he resides. BEM 105 (April 2017), p. 1; BEM 166, pp. 1-2; BEM 544 (July 2016), p. 1; RFT 240 (December 2013), p. 1; RFT 200 (April 2017), p. 2. The monthly PIL for a client in Petitioner's position, with an MA fiscal group size of one living in Oakland County, is \$408 per month. RFT 200, p. 3; RFT 240, p. 1. Thus, if Petitioner's monthly net income (less allowable needs deductions) is in excess of \$408, he is eligible for MA assistance under the deductible program, with the deductible equal to the amount that his monthly net income, less allowable deductions, exceeds \$408. BEM 545 (October 2018), pp. 2-3.

In determining the monthly deductible, net income is reduced by health insurance premiums paid by the MA group and remedial service allowances for individuals in adult foster care or homes for the aged. BEM 544, pp. 1-3. In this case, there is no evidence that Petitioner resides in an adult foster care home or home for the aged. However,

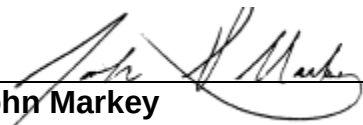
Petitioner pays a monthly health insurance premium of \$135.50. Therefore, he is eligible for a medical expense deduction, bringing the figure to \$1,146. Petitioner's net income of \$1,146 reduced by the \$408 PIL equals \$738. That is not what the Department concluded. Rather, the Department determined that Petitioner was eligible for MA benefits with a lower deductible, which means that Petitioner is getting more favorable coverage than the facts presented at the hearing justify.

Based on the evidence presented, any error that was made, if there was one, was made in Petitioner's favor. As Petitioner is not eligible for more favorable MA coverage than the MA coverage the Department determined, the Department's decision with respect to Petitioner's MA benefits, effective January 1, 2019, is affirmed.

**DECISION AND ORDER**

Accordingly, the Department's decision is **AFFIRMED**.

JM/cg

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

**Via Email:**

MDHHS-Oakland-4-Hearings  
D. Smith  
EQAD  
BSC4- Hearing Decisions  
MOAHR

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

[REDACTED]  
[REDACTED]  
[REDACTED]