



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 3, 2019
MOAHR Docket No.: 19-003152
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 April 29, 2019, from Sterling Heights, Michigan. Petitioner was represented by his Authorized Hearing Representative (AHR), [REDACTED]. The Department of Health and Human Services (Department) was represented by Haysem Hosney, Hearing Coordinator and Cynthia Miller, Assistance Payments Supervisor.

ISSUE

Did the Department properly determine 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. Petitioner was an ongoing MA recipient.
2. On December 5, 2018, the Department sent Petitioner a Health Care Coverage Determination Notice (HCCDN) informing him that he was approved for MA benefits subject to a monthly deductible of \$703 (Exhibit A).
3. On February 27, 2019, Petitioner submitted an application for MA benefits. The Department processed the application and continued Petitioner's MA benefits subject to a monthly deductible of \$735. A HCCDN was not issued.
4. Petitioner had unearned income in the form of Retirement, Survivors and Disability Insurance (RSDI) in the gross monthly amount of \$1,163.

5. On [REDACTED], 2019, Petitioner's AHR submitted a request for hearing disputing the Department's actions.

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's AHR submitted a request for hearing on [REDACTED], 2019, disputing the Department's decision to approve Petitioner for an MA program subject to a monthly deductible. Petitioner's AHR argued that Petitioner is entitled to full-coverage MA benefits. The Department contended that Petitioner's AHR's request for hearing was untimely, as the HCCDN approving Petitioner for MA benefits subject to a monthly deductible of \$703 was issued on December 5, 2018.

A client's request for hearing must be in writing and signed by an adult member of the eligible group, adult child, or AHR. BAM 600 (April 2017), p. 2. Moreover, Department policy 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. BAM 600, p. 6.

Petitioner's request for hearing regarding the December 5, 2018 decision issued by the Department was not timely. However, Petitioner reapplied for MA benefits on February 27, 2019. The Department testified that the application was processed, and it was determined that Petitioner was still entitled to MA benefits subject to a monthly deductible. As Petitioner was approved for the same MA benefit program, a new HCCDN was not issued.

The Standard of Promptness (SOP) begins the date the Department receives an application/filing form. BAM 115 (January 2019), p. 16. The Department must certify approval or denial of the application within 45 days. BAM 115, p. 16. The Department should automatically generate a client notice. BAM 115, p. 16.

Although the Department did not issue a HCCDN, Petitioner's February 27, 2019 application was certified and approved. Therefore, Petitioner has a right to a hearing

related to the Department's decision regarding his February 27, 2019 application. As such, the matter is discussed below.

Petitioner was an ongoing MA recipient under the G2S program. The Department testified that Petitioner was approved for MA benefits subject to a monthly deductible of \$703 on December 5, 2018. Upon processing the February 27, 2019 application, the Department determined Petitioner was still entitled to MA benefits under the G2S program subject to a monthly deductible. At the hearing, the Department testified that Petitioner's deductible amount remained the same. Upon further review, it appears Petitioner was approved for MA benefits subject to a monthly deductible of \$735 as of April 1, 2019 (Exhibit B).

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. Income eligibility for AD-Care exists when countable income does not exceed the income limit for the program. BEM 163, p. 2. As Petitioner is not married, per policy, Petitioner's fiscal group size for SSI-related MA benefits is one. BEM 211 (January 2016), p. 8.

The Department testified that it retrieved Petitioner's State Online Query (SOLQ) report, which showed he receives \$1,163 in gross RSDI benefits. Petitioner's AHR contented the Department erred when utilizing the \$1,163 figure. Petitioner's AHR presented documentation to show that Respondent's net benefit amount is \$1,138 per month, as Petitioner is subject to a \$25 per month recoupment for an overissuance (Exhibit 1).

RSDI is a federal benefit administered by the Social Security Administration that is available to retired and disabled individuals, their dependents, and survivors of deceased workers. BEM 503 (October 2018), p. 29. The Department counts the gross benefit amount as unearned income. BEM 503, p. 29. Certain exceptions apply such as fees deducted for those acting as a representative payee, special rules for Supplemental Security Income (SSI) beneficiaries, and Medicare premium refunds. BEM 503, p. 29.

There is no exception to countable RSDI benefits for any payment that is recouped related to an overissuance of program benefits. Therefore, the Department acted in accordance with policy when it counted Petitioner's gross RSDI payment of \$1,163.

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). Petitioner did not allege any such factors were applicable. The income limit for AD-Care for a one-person MA group is \$1,031.67 (100 percent of the Federal Poverty Level plus the \$20 disregard for RSDI income). RFT 242 (April 2018), p. 1; BEM 541 (January 2018), p. 3. Because Petitioner's monthly household income exceeds \$1,031.67, the Department properly determined Petitioner to be ineligible for MA benefits under AD-Care.

Petitioner may still receive MA benefits subject to a monthly deductible through a Group 2 Medicaid category. Petitioner is not the caretaker of any minor children, and therefore, does not qualify for MA through the Group 2-Caretaker MA program.

Petitioner is 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 \$1,143 (his gross RSDI reduced by a \$20 disregard). BEM 541, p. 3. The deductible is in the amount that the client's net income (less any allowable needs deductions) exceeds the applicable Group 2 MA 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, p. 1; BEM 166 (April 2017), 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 Macomb 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 (April 2018), pp. 2-3. The Department presented an SSI-related MA budget showing the calculation of Petitioner's deductible (Exhibit B).

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 was no evidence that Petitioner resides in an adult foster care home or home for the aged. Therefore, he is not eligible for any remedial service allowances. There was evidence that Petitioner had Medicare Part B but according to the SOLQ report, the State of Michigan pays his Medicare Part B expenses. Therefore, the Department properly did not include any insurance premium deductions.

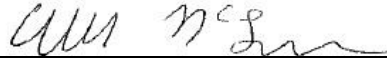
Petitioner's AHR argued that Petitioner's ongoing medical expenses should be considered when determining Petitioner's MA eligibility. As stated above, medical expenses are not included in policy as a deduction for MA eligibility under the Ad-Care program, nor the G2S program. BEM 544 and BEM 541. Medical expenses for individuals under the G2S program are used to determine income eligibility and when they are entitled to full-coverage MA after meeting their deductible. BEM 545. Therefore, the Department acted in accordance with policy when it did not consider any medical expenses when determining Petitioner's income eligibility under the Ad-Care program or Petitioner's deductible amount under the G2S program.

Petitioner's net income of \$1,143 reduced by the \$408 PIL is \$735. Therefore, the Department properly determined that Petitioner is eligible for MA benefits under the G2S program subject to a monthly deductible of \$735.

DECISION AND ORDER

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

EM/cg



Ellen McLemore

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-Macomb-36-Hearings
D. Smith
EQAD
BSC4- Hearing Decisions
MOAHR

Petitioner –

Via First-Class Mail:

[REDACTED]
[REDACTED]
[REDACTED]

Authorized Hearing Rep. –

Via First-Class Mail:

[REDACTED]
[REDACTED]
[REDACTED]