



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], MI [REDACTED]

Date Mailed: June 12, 2019  
MOAHR Docket No.: 19-003504  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Aaron McClintic

### **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 22, 2019, from Lansing, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Crystal Hackney. Department Exhibit 1, pp. 1-15 was received and admitted.

### **ISSUE**

Did the Department properly determine Petitioner's Medical Assistance (MA) eligibility and deductible amount?

### **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 receives \$ [REDACTED] monthly social security RSDI.
2. On April 12, 2019, a Health Care Coverage Determination Notice was sent to Petitioner informing her that she was eligible for MA with a \$633 deductible effective May 1, 2018. Petitioner was also found eligible for the Medicare Savings Program.
3. On April 1, 2019, Petitioner requested hearing disputing the determination of her MA eligibility and deductible amount.

## **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.

### **RULES FOR MA GROUP 2 INCOME ELIGIBILITY**

Use the following rules to determine MA Group 2 income eligibility.

The individual must be given the most advantageous use of their old bills (also known as incurred expenses). The individual may request coverage for the current month, up to six future months (see eligibility based on old bills in this item), and for any prior months.

1. Use the budgeting rules in BEM 530. Determine income eligibility in calendar month order, starting with the oldest calendar month.
2. Use BEM 546 to determine the post-eligibility patient-pay amount (PPA) for each L/H month that a beneficiary is Group 2 eligible.
3. Determine Medicare Savings Program eligibility separately for Group 2 beneficiaries entitled to Medicare Part A (see BEM 165).
4. Request information about all medical expenses incurred during and prior to each month with excess income.

5. Notify the group of the outcome of each determination. **NOTIFICATION** explains which forms to use and when. BEM 545 (January 2019)

**RETIREMENT,  
SURVIVORS,  
AND  
DISABILITY  
INSURANCE  
(RSDI) (AKA  
SOCIAL  
SECURITY  
BENEFITS)**

**All Programs**

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.

Bridges counts the gross benefit amount as unearned income.

***Exceptions:***

- Special rules apply when determining MA eligibility for certain former SSI recipients; see BEM 155, 503 Individuals, 157, Early Widow(er)s, and 158, Disabled Adult Children. These special rules do not apply to post-eligibility patient-pay amount calculations in BEM 546.
- Exclude Medicare premium refunds as income and as assets. Refunds are made because there is a delay of about 120 days between when Medical Services Administration initiates Medicare buy-in and an individual's benefit check changes; see Bridges Administrative Manual (BAM) 810.
- The Social Security Administration authorizes qualified organizations to deduct a fee for acting as a representative payee. Exclude the fee withheld by an authorized organization.
- See BEM 500, Returned Benefits.
- See BEM 400, Retroactive RSDI and SSI Exclusion.

### Medicaid Only

**Note:** Countable RSDI for fiscal group members is the gross amount for the previous December when the month being tested is January, February, or March. Federal law requires the cost-of-living (COLA) increase received in January be disregarded for these three months. For all other months countable RSDI is the gross amount for the month being tested.

Special budgeting rules apply when determining eligibility for MAGI Medicaid.

- All RSDI income is countable to tax-filers and adults not claimed as dependents.
- A child/tax-dependent's RSDI is countable only if that child or tax-dependent is required to file taxes.
- If a child or tax-dependent meets an exception outlined in BEM 211 then all their RSDI income is countable to them even if they are not required to file taxes.

**Example:** A child is claimed by their grandparent. Because they are claimed by someone other than a parent or spouse use not tax-filer rules to determine their household. Any RSDI income they receive is countable.

- **Note:** The RSDI budgetable income worksheet is no longer valid in determining how much RSDI income may be countable to an applicant. BEM 503 (October 2018)

In this case, Petitioner receives \$ [REDACTED] in RSDI income. Petitioner did not dispute the income used by the Department. Based on Department budgeting following deductions and exclusions, Petitioner has total countable income of \$ [REDACTED]. After subtracting the \$408 protected income limit, the remaining deductible is \$633. This deductible amount was consistent with Department policy and was proper and correct. BEM 545

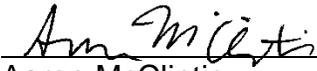
Petitioner raised issues because she cannot afford to pay her deductible and her other expenses. The undersigned Administrative Law Judge does not have the authority to overrule department policy based on the individual circumstances of recipients.

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 benefit and deductible amount.

**DECISION AND ORDER**

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

AM/nr

  
\_\_\_\_\_  
Aaron McClintic  
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

**DHHS**

Linda Gooden  
25620 W. 8 Mile Rd  
Southfield, MI  
48033

Oakland 3 County DHHS- via electronic  
mail

BSC4- via electronic mail

D. Smith- via electronic mail

EQAD- via electronic mail

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED] MI  
[REDACTED]