



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 10, 2019  
MOAHR Docket No.: 19-004474  
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 June 6, 2019, from Lansing, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Aundrea Jones Hearing Facilitator. Department Exhibit 1, pp. 1-20 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. On [REDACTED] [REDACTED] 2019, Petitioner applied for MA.
2. Petitioner receives \$[REDACTED] monthly social security RSDI.
3. On March 4, 2019, a Health Care Coverage Determination Notice was sent to Petitioner informing her that she was eligible for MA with a \$742 deductible effective April 1, 2018. Petitioner was also found eligible for the Medicare Savings Program.
4. On April 26, 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)

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 \$375 protected income limit and \$135.50 for insurance premiums, the remaining deductible is \$742. This deductible amount was consistent with Department policy and was proper and correct. BEM 545


Petitioner raised issues because she previously received Medicaid without a deductible while also receiving Medicare. The Department representative explained that when Petitioner turned 65, she was no longer eligible for the previous Medicaid program. BEM 240 Petitioner questioned whether she was being discriminated against because of her age. Petitioner is being discriminated against because of her age but that discrimination is permissible.

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**

Jeanenne Broadnax  
25637 Ecorse Rd.  
Taylor, MI  
48180

Wayne 18 County DHHS- via electronic  
mail

BSC4- via electronic mail

D. Smith- via electronic mail

EQAD- via electronic mail

**Petitioner**

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