



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: July 18, 2019
MOAHR Docket No.: 19-005489
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 July 11, 2019, from Detroit, Michigan. Petitioner appeared and was represented by [REDACTED], his daughter and authorized hearing representative (AHR). Also appearing on Petitioner's behalf was his daughter [REDACTED]. The Department of Health and Human Services (Department) was represented by Olivette Gordon, Family Independence Manager.

ISSUE

Did the Department properly determine that Petitioner was eligible for Medicaid (MA) subject to a monthly \$914 deductible?

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 is an ongoing recipient of MA with a monthly deductible.
2. Petitioner is 92 years old and is a recipient of Medicare.
3. Petitioner is widowed and lives in [REDACTED] County.
4. Petitioner receives gross monthly Retirement, Survivors and Disability Insurance (RSDI) income of \$1,445.
5. The Social Security Administration withholds \$135.50 monthly from Petitioner's RSDI income to pay his Part B Medicare premium.

6. Following the processing of an annual MA determination, on May 29, 2019, the Department sent Petitioner a Health Care Coverage Determination Notice notifying him that he was eligible for ongoing MA subject to a monthly \$914 deductible.
7. On [REDACTED] 2019, the Department received Petitioner's request for hearing disputing the Department's MA finding.

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 the May 29, 2019 Health Care Coverage Determination Notice, the Department notified Petitioner that he was eligible for MA with a \$914 monthly deductible.

Under federal law, Petitioner is entitled to the best available MA coverage he is eligible to receive based on his income and other eligibility criteria. BEM 105 (April 2017), p. 2. Because Petitioner is over age 65 and the recipient of Medicare but is not the parent of a minor child, the only MA category under which he was potentially eligible to receive benefits was an SSI-related MA program. The Ad-Care program is a full-coverage SSI-related MA program for disabled individuals who are income eligible based on their MA fiscal group size. BEM 163 (July 2017), p. 1.

In determining MA income eligibility, the Department counts gross RSDI income, except in limited circumstances not applicable in the instant case. BEM 503 (April 2019), pp. 32. Because Petitioner is unmarried, his fiscal group size for MA purposes is one. BEM 211 (July 2019), p. 8. The net income limit under the Ad-Care program where there is one member in the MA fiscal group is \$1061. BEM 163, p. 2; RFT 242, p. 1. Petitioner's net income, his gross income of \$1445 less a \$20 disregard, is \$1,425. BEM 541 (July 2019), p. 3. Because Petitioner's net income exceeded the income limit for coverage under the Ad-Care program, Petitioner is ineligible for Ad-Care based on excess income.

Despite having excess income for Ad-Care eligibility, an individual is potentially eligible for MA coverage under a Group 2 SSI-related (G2S) program, which provides MA coverage subject to a monthly deductible, with the deductible equal to the amount the individual's net income, calculated in accordance with the applicable Group 2 MA policy, exceeds the applicable Group 2 MA protected income level (PIL). BEM 166 (April 2017), p. 1; BEM 105 (April 2017), p. 1. The PIL is a set allowance for non-medical need items such as shelter, food and incidental expenses that is based on the county in which the client resides and the client's fiscal MA group size. BEM 544 (July 2016), p. 1. The PIL for Wayne County, where Petitioner resides, based on a single-person MA group is \$375. RFT 200 (April 2017), p. 2; RFT 240 (December 2013), p. 1.

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 (July 2016), pp. 1-3. In this case, Petitioner does not reside in an adult foster care home or home for the aged. Therefore, he is not eligible for any remedial service allowances. Because he is responsible for Part B Medicare premiums of \$135.50, his countable income is \$1,289, the difference between the \$1,425 monthly net income and the insurance premium, rounded down.

When Petitioner's \$1,269 countable income is reduced by the \$375 PIL, Petitioner has excess income of \$914. Therefore, the Department acted in accordance with Department policy when it concluded that Petitioner was eligible for MA subject to a monthly \$914 deductible.

DECISION AND ORDER

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



AE/tm

Alice C. Elkin

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

Richard Latimore
4733 Conner
Detroit, MI
48215

Authorized Hearing Rep.

[REDACTED]
[REDACTED]
[REDACTED]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]

cc: MA- Deanna Smith; EQADHShearings
AP Specialist-Wayne County