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GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

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Date Mailed: November 18, 2019
MOAHR Docket No.: 19-011277
Agency No.: ██████████
Petitioner: ██████████

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 November 13, 2019 from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by ██████████, Hearings Facilitator. During the hearing, a 15-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-15.

ISSUE

Did the Department properly determine that Petitioner was ineligible for Medicare Savings Program (MSP) benefits?

Did the Department properly determine Petitioner's eligibility for Medicaid (MA) benefits, effective ██████████ 2019?

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 lives with her daughter, who was born ██████████, 2001. Petitioner receives gross monthly RSDI income of ██████████, and her daughter receives gross monthly RSDI income of \$██████ per month.
2. Petitioner was an ongoing recipient of MA benefits from the Department.

3. On [REDACTED], 2019, the Department issued to Petitioner a Benefit Notice informing Petitioner that she was not eligible for MSP benefits. At the hearing, it was explained that the Department's decision was based on its finding that Petitioner's monthly income exceeded the limit for program eligibility. Exhibit A, p. 12.
4. On [REDACTED], 2019, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that she was eligible for MA benefits subject to a [REDACTED] monthly deductible, effective [REDACTED], 2019. Exhibit A, pp. 9-11.
5. On [REDACTED], 2019, Petitioner submitted to the Department a request for hearing objecting to 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 submitted to the Department an [REDACTED] 2019 request for hearing objecting to actions taken with respect to two different benefits programs administered by the Department.

Petitioner is a disabled adult who lives with her daughter, who turned [REDACTED] on [REDACTED], 2019. Petitioner's monthly income consists of [REDACTED] in RSDI, and her daughter receives [REDACTED] in monthly RSDI. On [REDACTED] 2019, the Department denied Petitioner's request for MSP benefits. On [REDACTED], 2019, the Department issued Petitioner a Health Care Coverage Determination Notice informing Petitioner that she was eligible for MA benefits under the G2S program subject to a [REDACTED] monthly deductible, effective [REDACTED], 2019.

██████████, 2019 MSP DENIAL

MSP benefits are SSI-related MA categories. There are three categories of MSP benefits including the Qualified Medicare Beneficiary (QMB), the Special Low Income Medicare Beneficiary (SLMB), and the Additional Low Income Medicare Beneficiary (ALMB). QMB pays Medicare premiums, and Medicare coinsurances, and Medicare deductibles. QMB coverage begins the calendar month after the processing month. SLMB pays Medicare Part B premiums. SLMB coverage is available for retro MA months and later months. ALMB pays Medicare Part B premiums provided funding is available. ALMB coverage is available for retro MA months and later months. BEM 165 (January 2018), pp. 2-4. Income eligibility for MSP benefits exists when net income for the fiscal group is within the limits in RFT 242 or 247. The Department is to determine countable income according to the SSI-related MA policies in BEM 500 and 530, except as otherwise explained in BEM 165. RFT 242 (April 2019), pp. 1-2; BEM 165 (January 2018), pp. 7-8. Gross RSDI income is counted. BEM 165, p. 8.

Petitioner was not married. Thus, Petitioner's fiscal group size is one. BEM 211 (February 2019), p. 8. For a fiscal group size of one, the highest possible monthly income for eligibility is \$1,426, which amounts to 135% of the federal poverty limit plus a \$20 disregard for RSDI income. Petitioner's monthly RSDI income was ██████████ during the entire relevant time period. Petitioner had no deductible expenses. BEM 541 (January 2019). Thus, Petitioner's countable income exceeded the limit for program eligibility. Accordingly, the Department properly denied Petitioner's request for MSP benefits via the ██████████ 2019 Benefit Notice.

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 issued the ██████████, 2019 Benefit Notice denying Petitioner's request for MSP benefits.

██████████ 2019 HEALTH CARE COVERAGE DETERMINATION NOTICE

On ██████████ 2019, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that she was eligible for MA benefits subject to a ██████████ monthly deductible under the G2S program, effective ██████████ 2019. Prior to ██████████ 2019, Petitioner had been receiving MA benefits from the Department with a lower deductible under the G2C program. However, because Petitioner's daughter was turning 18 during the month of ██████████ 2019, the Department stopped providing coverage under that program and switched it to the less favorable G2S program.

Petitioner verified at the hearing that her household income consisted of her monthly unearned income of ██████████ in the form of RSDI she receives from the Social Security Administration as well as her daughter's monthly RSDI income of ██████████. Accordingly, the Department properly determined that Petitioner was not eligible for either AD-Care

or LIF MA as her income exceeded the limit for eligibility based on the rules applicable to those programs. BEM 163 (July 2017), p. 1; BEM 110 (April 2018), p. 1.

Petitioner may still be eligible for MA benefits subject to a monthly deductible through the G2S or G2C program, which are both SSI-related MA categories. BEM 135 (October 2015), p. 1; BEM 166 (April 2017), p. 1. Petitioner's fiscal group size for SSI-related MA benefits is one. BEM 211 (July 2019), pp. 7-8. Petitioner's monthly income of [REDACTED] is reduced by a [REDACTED] disregard to arrive at a figure of [REDACTED]. BEM 541 (July 2019), 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 she 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. 3. The monthly PIL for a client in Petitioner's position, with an MA fiscal group size of one living in [REDACTED] 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, she is eligible for MA assistance under the deductible program, with the deductible equal to the amount that her monthly net income, less allowable deductions, exceeds \$408. BEM 545 (July 2019), pp. 2-3.

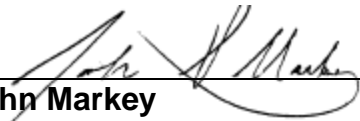
In determining the monthly deductible, net income is reduced by health insurance premiums paid by the MA group and remedial service allowances for individuals in adult foster care or homes for the aged. BEM 544, pp. 1-3. In this case, Petitioner pays a [REDACTED] per month premium for her health insurance. Petitioner's income of [REDACTED] is reduced first by the [REDACTED] premium, resulting in a figure of [REDACTED]. That figure is further reduced by the [REDACTED] PIL, which results in a deductible of [REDACTED]. That is not quite what the Department concluded. Rather, the Department determined that Petitioner's deductible was [REDACTED]. 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 [REDACTED] 2019, is affirmed.

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 issued the [REDACTED] 2019 Health Care Coverage Determination Notice finding Petitioner eligible for MA benefits subject to a [REDACTED] monthly deductible, effective [REDACTED] 2019.

DECISION AND ORDER

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

JM/tm



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 Office of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

Vivian Worden
21885 Dunham Road
Clinton Twp., MI
48036

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

cc: MA- Deanna Smith; EQADHShearings
AP Specialist Macomb (4)