



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

[REDACTED]  
[REDACTED], MI [REDACTED]

Date Mailed: December 13, 2019  
MOAHR Docket No.: 19-011508  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Jeffrey Kemm

### **HEARING DECISION**

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to 400.9; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on December 11, 2019, from Lansing, Michigan. Petitioner, Richard Bittner, appeared with his spouse, [REDACTED] Respondent, Department of Health and Human Services (Department), had Natalie McLaurin, hearing facilitator, appear as its representative. Neither party had any additional witnesses.

### **ISSUES**

Did Petitioner file a timely hearing request to dispute the closure of his Medicare Savings Program coverage?

Did the Department properly determine Petitioner's monthly deductible for Medical Assistance (MA)?

### **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 in [REDACTED]
2. Petitioner has a household size of two, including Petitioner and his spouse.
3. Petitioner's household income is [REDACTED] per month, which consists of [REDACTED] from social security and [REDACTED] from a pension.
4. Petitioner pays a Medicare Part B premium of \$135.50 per month.
5. In November 2018, the Department stopped covering Petitioner's Medicare Part B premium through the Medicare Savings Program.

6. On August 6, 2019, the Department issued a health care coverage determination notice which notified Petitioner that he was eligible for MA with a monthly deductible of \$1,399.00 from April 1 through April 27, 2019. The notice further notified Petitioner that he was eligible for full-coverage MA from April 28 through April 30, 2019.
7. On September 23, 2019, the Department issued a health care coverage determination notice which notified Petitioner that he was eligible for MA with a monthly deductible of \$1,399.00 effective October 1, 2019.
8. On October 22, 2019, Petitioner filed a hearing request to dispute the closure of his Medicare Savings Program coverage and his monthly deductible.

### **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 administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

### **TIMELY HEARING REQUEST**

Petitioner attempted to dispute the closure of his Medicare Savings Program coverage. However, Petitioner's hearing request was received on October 22, 2019, and Petitioner did not present any evidence to establish that it was received within 90 days of any negative action affecting the disputed program. A hearing request must be received within 90 days of the date of a negative action notice otherwise it is untimely. BAM 600 (July 1, 2019), p. 6. In this case, Petitioner's hearing request was untimely to dispute the closure of his Medicare Savings Program coverage, so the Michigan Office of Administrative Hearings and Rules does not have jurisdiction to address it.

### **MONTHLY DEDUCTIBLE**

Health care coverage for adults is available through various programs, including full-coverage for aged or disabled adults. In order for an aged or disabled adult to be eligible for full-coverage, the individual's household income must be no more than 100% of the Federal Poverty Limit (FPL). BEM 163 (July 1, 2017), p. 2. The FPL for a household size of two in 2019 is \$16,910.00. Petitioner's household income is \$24,612.00 per year (based on his monthly household income, minus a \$20.00 disregard for social security, and then annualized). Since Petitioner's household income exceeds the limit for full-coverage, so the Department properly determined that the best available coverage for Petitioner was MA with a monthly deductible.

The Department calculated Petitioner's monthly deductible by taking his monthly household income, minus eligible expenses, and minus the protected income limit. BEM 166 (April 1, 2017), BEM 541 (July 1, 2019), BEM 544 (July 1, 2016), RFT 200 (April 1, 2017), and RFT 240 (December 1, 2013). Petitioner's eligible expenses are a \$20.00 disregard from income for social security and a \$135.50 deduction for his monthly Medicare premium. The protected income limit for a household of two in Saginaw is \$516.00. The Department properly determined Petitioner's monthly deductible when it determined that it should be \$1,399.00 per month because that is the amount of household income Petitioner has in excess of his eligible expenses and the protected income limit.

Although the Department has other programs which also provide MA, there was no evidence presented that Petitioner would have met the requirements of any of those programs to be eligible for MA.

### **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 (a) Petitioner did not file a timely hearing request to dispute the closure of his Medicare Savings Program coverage, and (b) the Department did act in accordance with its policies and the applicable law when it determined Petitioner's monthly deductible.

IT IS ORDERED the Department's decision is **AFFIRMED**.

JK/ml



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Jeffrey Kemm  
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**

Kathleen Verdoni  
411 East Genesee  
P.O. Box 5070  
Saginaw, MI 48607

Saginaw County DHHS – Via Electronic  
Mail

BSC2 – Via Electronic Mail

D. Smith – Via Electronic Mail

EQAD – Via Electronic Mail

**Petitioner**

[REDACTED]  
[REDACTED]  
MI [REDACTED]