



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
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[REDACTED]

Date Mailed: August 28, 2019
MOAHR Docket No.: 19-006402
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 August 7, 2019, from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Eligibility Specialist.

ISSUE

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

Did the Department properly determinate that Petitioner was not income eligible for Medicare Savings Program (MSP) benefits?

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 September 19, 2018, Petitioner applied for MA and was approved (Exhibit A, pp. 12-22, 30-32).
2. Petitioner receives monthly Retirement, Survivors and Disability (RSDI) income of \$1,526.50 due to a disability.
3. Petitioner is a Medicare recipient.
4. During all relevant periods, Petitioner was not the parent of a minor child or pregnant.

5. Petitioner is unmarried and lives in Macomb County.
6. On February 7, 2019, the Department sent Petitioner a Health Care Coverage Determination Notice notifying her that she was eligible for MSP from November 1, 2018 ongoing and for MA coverage with a monthly \$794 deductible for March 1, 2019 ongoing (Exhibit A, pp. 34-37).
7. On June 3, 2019, the Department received Petitioner's request for hearing disputing the Department's actions concerning her MA and MSP cases.

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. MSP is part of the MA program.

Petitioner requested a hearing to understand the Department's actions concerning her MA coverage and her MSP eligibility.

MA Deductible Case

With respect to Petitioner's MA case, in the February 7, 2019 Health Care Coverage Determination Notice, the Department notified Petitioner that effective March 1, 2019, she was eligible for MA with a \$794 monthly deductible. The eligibility summary showed that the deductible had subsequently increased to \$962 although the Department failed to produce any notice showing that it had advised Petitioner of the increase.

Under federal law, Petitioner is entitled to the best available MA coverage she is eligible to receive based on her income and other eligibility criteria. BEM 105 (April 2017), p. 2. Because Petitioner is disabled and the recipient of Medicare but is not the parent of a minor child or pregnant, the only MA category under which she was potentially eligible to receive benefits was an SSI-related MA program, which is MA coverage for eligible disabled, aged, or blind individuals. BEM 105, pp. 1, 4-5.

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. Because Petitioner is unmarried, her fiscal group size for MA purposes is one. BEM 211 (July 2019), p. 8. The 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.

In calculating income for MA purposes, the Department considers, except in limited circumstances not applicable in the instant case, gross RSDI income. BEM 503 (April 2019), pp. 32. Petitioner did not dispute that she received gross monthly RSDI income of \$1,526.50. For MA purposes, Petitioner's net income, which is her gross income less a \$20 disregard, is \$1,506.50. BEM 541 (July 2019), p. 3. Because Petitioner's net income exceeds the \$1,061 income limit under the Ad-Care program, Petitioner is ineligible for full-coverage MA under the Ad-Care program.

Despite having excess income for Ad-Care eligibility, Petitioner, based on her receipt of RSDI income due to a disability, was potentially eligible for MA coverage under a Group 2 SSI-related (G2S) program, which provides for MA coverage subject to a monthly deductible. The deductible is equal to the amount the individual's net income, less any applicable deductions, 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. It is based on the county in which the client resides and the client's fiscal MA group size. BEM 544 (July 2016), p. 1. For Petitioner, who resides in Macomb County and has a single-person MA group, the PIL is \$408. RFT 200 (April 2017), p. 2; RFT 240 (December 2013), p. 3.

In determining Petitioner's monthly deductible, the Department presented a SSI-related MA budget (Exhibit A, p. 40). The budget shows the calculation of a \$962 deductible, which is consistent with the deductible showing on the eligibility summary for April 2019 ongoing. 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, she is not eligible for any remedial service allowances. Petitioner verified that she had been notified that she was responsible for payment of her monthly \$135.50 Medicare Part B premiums. Petitioner's net income of \$1506 reduced by the insurance premiums results in countable income of \$1371. When Petitioner's countable income is reduced by the \$408 PIL, Petitioner has \$962 in excess income. Thus, Petitioner is eligible for MA subject to a monthly \$962 deductible. Thus, the Department acted in accordance with Department policy in determining that Petitioner was eligible for MA subject to a \$962 deductible for April 2019 ongoing.

MSP Case

Petitioner also expressed concerns about her Medicare case. Medicare is a federal program administered by the Social Security Administration. MSP is a State program administered by the Department in which the State pays an income-eligible client's Medicare premiums, coinsurances, and deductibles. BEM 165 (January 2018), pp 1-2; BAM 810 (July 2019), p. 1. There are three MSP categories: (1) Qualified Medicare Beneficiary (QMB), which pays for a client's Medicare premiums (both Part A, if any, and Part B), Medicare coinsurances and Medicare deductibles; (2) Specified Low-Income Medicare Beneficiaries (SLMB), which pays for a client's Medicare Part B premiums; and (3) Additional Low Income Medicare Beneficiaries (ALMB), which pays for a client's Medicare Part B premiums when funding is available. BEM 165, pp. 1-2. The MSP category a client is eligible for is dependent on the client's income: an individual who is unmarried and is therefore the only member of her MA fiscal group is eligible for QMB if her monthly net income is no more than \$1061, SLMB if her net monthly income is between \$1061.01 and \$1269, and ALMB if her net income is between \$1269.01 and \$1426. RFT 242 (April 2019), pp. 1-2; BEM 165, pp. 2, 8.

At the hearing, Petitioner presented letters from the Social Security Administration that indicated that it would no longer withhold her \$135.50 from her RSDI payment to pay for her premium. However, she testified that she later received a letter from SSA that notified her that she was not eligible for MSP and would have to repay the premium cost. Although the Department's evidence showed that it had approved Petitioner for MSP benefits for November 2018 ongoing, it closed her case effective April 1, 2019 (Exhibit A, pp. 27, 34; Exhibit B). At the hearing, the Department explained that Petitioner was not income-eligible for MSP.

As discussed above, Petitioner has net income of \$1,506. Because her net income exceeds the limit for MSP eligibility under any of the three programs, Petitioner is not income eligible for MSP. Thus, the Department acted in accordance with Department policy when it closed her MSP case.

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 in determining that Petitioner was eligible for MA subject to a monthly deductible and was not income eligible for MSP benefits.

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

[REDACTED]
[REDACTED]
[REDACTED]
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Petitioner

[REDACTED]
[REDACTED]
[REDACTED]

cc: MA- [REDACTED] EQADHShearings
AP Specialist-Wayne County