



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

ORLENE HAWKS  
DIRECTOR

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

Date Mailed: March 18, 2019  
MAHS Docket No.: 19-000475  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler**

**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 March 11, 2019, from Detroit, Michigan. The Petitioner appeared for the hearing and was represented by Arma Williams. The Department of Health and Human Services (Department) was represented by Valarie Foley, Hearings Facilitator.

**ISSUE**

Did the Department properly determine Petitioner's Medical Assistance (MA) Program eligibility?

**FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. In 2018, Petitioner had Retirement, Survivors, and Disability Insurance (RSDI) income of \$ [REDACTED] through September 2018.
2. Petitioner is enrolled in the Medicare Savings Program (MSP), Qualified Medicare Beneficiary (QMB) Plan and the State pays for her Medicare premiums.
3. On [REDACTED] 2018, the Department received Petitioner's application for MA benefits which listed \$ [REDACTED] per month as her RSDI benefit.
4. At application, Petitioner was age [REDACTED]

5. The State Online Query shows that the \$ [REDACTED] benefit became effective for October 2018; therefore, her first payment at the new rate was in November 2018.
6. On January 8, 2019, the Department issued a Health Care Coverage Determination Notice (HCCDN) to Petitioner informing her that she was eligible for MA with a \$ [REDACTED] deductible for December 2018, and a deductible of \$ [REDACTED] per month for January 2019, ongoing.
7. On January 17, 2019, the Department received Petitioner's request for hearing disputing her placement in an MA deductible program.

### **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 an application for MA benefits; and she was placed in the Group 2-Aged, Blind, Disabled (G2S) MA program with a deductible of \$ [REDACTED] for December 2018, and \$ [REDACTED] for January 2019, ongoing. Petitioner believes that she should be eligible for MA without a deductible.

Medicaid is available (i) under Supplemental Security Income (SSI)-related categories to individuals who are aged (65 or older), blind or disabled, (ii) to individuals who are under age 19, parents or caretakers of children, or pregnant or recently pregnant women, and (iii) to individuals who meet the eligibility criteria for Healthy Michigan Plan (HMP) coverage. BEM 105 (April 2017), p. 1.

Petitioner is not under age 19 or pregnant. No evidence was presented that Petitioner was a parent or caretaker of a minor child, or former foster child. Therefore, the programs for each of these groups are inapplicable to the Petitioner.

HMP provides MA coverage to individuals who (i) are 19 to 64 years of age; (ii) have income at or below 133% of the federal poverty level (FPL) under the Modified Adjusted Gross Income (MAGI) methodology; (iii) do not qualify for or are not enrolled in

Medicare; (iv) do not qualify for or are not enrolled in other MA programs; (v) are not pregnant at the time of application; and (vi) are residents of the State of Michigan. BEM 137 (April 2018) p. 1; MPM, Healthy Michigan Plan, § 1.1. Since Petitioner is a Medicare Recipient and she was age 67 at application, she is not eligible for HMP.

In determining the SSI-related MA category Petitioner is eligible to receive, the Department must determine Petitioner's MA fiscal group size and net income. Petitioner has a group size for SSI-related MA purposes of one as there was no evidence presented that Petitioner is not married. BEM 211 (January 2016), p. 8. Petitioner's total monthly income was \$ [REDACTED] until September 2018 and \$ [REDACTED] beginning October 2018.

The Ad-Care program, an SSI-related MA category, requires that net group income cannot exceed one hundred percent of the federal poverty level. BEM 163, pp. 1-2. The 2018 federal poverty level (FPL) for a one-person household is \$12,140.00 until January 11, 2019. See <https://aspe.hhs.gov/poverty-guidelines>; see also <https://aspe.hhs.gov/prior-hhs-poverty-guidelines-and-federal-register-references>. Pursuant to policy, the net income limit is established by subtracting \$20.00 from the amount shown in RFT 242 at \$1,031.67 for a group size of one, effective April 1, 2018. BEM 163, p. 2; RFT 242 (April 2018), p. 1. In other words, the net income limit is \$1,011.67. Countable income is calculated by adding the amounts of income actually received/available within the past month. BEM 530 (July 2017), p. 2. In MA cases, the countable RSDI benefit is the gross amount for the previous December when the month being tested is January, February, or March. BEM 503 (October 2018), p. 29. Therefore, for consideration of MA benefits, Petitioner's income is \$ [REDACTED] for both December 2018 and January 2019. The Department then properly applied the \$20.00 general exclusion. BEM 541 (January 2018), p. 3. Therefore, Petitioner's net income is \$ [REDACTED] which is greater than the net income limit of \$1,011.67 and the federal poverty limit. Petitioner is not eligible for the full coverage Ad-Care program in December 2018 or January 2019.

Since Petitioner has excess income for eligibility under the Ad-Care program, the full coverage SSI-related MA program, an evaluation of Petitioner's eligibility for MA coverage under the Group 2 program follows. Group 2 provides MA coverage with a deductible. BEM 105, p. 1.

The deductible is the amount that the client's net income (less any allowable deductions) exceeds the applicable Group 2 MA protected income level (PIL). PIL is a set allowance for non-medical need items such as shelter, food, and incidental expenses. BEM 544 (July 2016), p. 1. It is based on the client's MA fiscal group size and the county in which the client resides. *Id.* Petitioner resides in Wayne County and has a group size of one; therefore, she is in shelter area IV, and her PIL is \$375.00. RFT 200 (April 2017), p. 3; RFT 240 (December 2013), p. 1. Thus, if Petitioner's monthly net income (less allowable needs deductions) is in excess of \$375.00, Petitioner is eligible for MA assistance under the G2S program with a deductible equal

to the amount of income remaining after the appropriate and allowed deductions which are greater than \$375.00.

As discussed above, Petitioner's net income was \$ [REDACTED] for both December 2018 and January 2019. In calculating the deductible, allowances are made for health insurance premiums and remedial services. BEM 544, pp. 1-2. A remedial service produces the maximum reduction of physical and mental limitations and restores an individual to their best possible functional levels. BEM 544, p. 2. However, remedial care services do not include personal care services. *Id.* At a minimum, remedial services include basic self-care and rehabilitation training which teach and reinforce things such as dressing, grooming, eating, bathing, toileting, and following simple instructions. *Id.* No evidence was presented that Petitioner had submitted proof of any remedial service expenses to the Department prior to its decision. In addition, no evidence was presented of a health insurance premium. Since there were no health insurance premiums or remedial services to be deducted, the Petitioner's PIL was subtracted from her net income to reach a deductible of \$ [REDACTED] for December 2018. In January 2019, the Department applied a \$30.00 cost-of-living (COLA) exclusion as well which reduced her overall deductible to \$ [REDACTED]. Federal law requires the COLA increase received in January be disregarded for these three months. BEM 503 (January 2019), p. 29. For all other months, countable RSDI is the gross amount for the month being tested. *Id.* After reviewing policy and the budgets, the Department properly calculated Petitioner's deductible for December 2018 and January 2019, ongoing.

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 calculated Petitioner's G2S eligibility and deductible for December 2018 and January 2019, ongoing.

### **DECISION AND ORDER**

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

AMTM/jaf



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**Amanda M. T. Marler**

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 Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS 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. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

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

**DHHS**

Susan Noel  
MDHHS-Wayne-19-Hearings

**Authorized Hearing Rep.**

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**Petitioner**

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