



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: May 10, 2019
MOAHR Docket No.: 19-002833
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 May 8, 2019, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was no present.

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. Petitioner was an ongoing MA recipient.
2. Petitioner was approved for MA benefits subject to a monthly deductible of \$526.
3. On [REDACTED], 2019, Petitioner submitted a request for hearing disputing 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 was an ongoing MA recipient. The Department determined Petitioner was eligible for MA benefits subject to a monthly deductible of \$526. The Department was not present at the hearing. As such, it is unclear as to when Petitioner was approved for MA benefits subject to a deductible and under which program Petitioner was previously receiving MA benefits. According to the hearing summary, Petitioner was approved for MA benefits subject to a monthly deductible as of March 1, 2019. However, Petitioner testified that she was no longer receiving full-coverage MA benefits as of January 1, 2019.

Petitioner testified that she received an increase in Social Security benefits. Based on Petitioner's testimony, it is likely that Petitioner was receiving full-coverage MA benefits under the Ad-Care program, but due to the increase in Social Security, was placed in the Group 2 Aged, Blind and Disabled (G2S) MA category with a deductible.

As a disabled and/or aged individual, Petitioner is potentially eligible to receive MA benefits through AD-Care. Ad-Care is an SSI-related full-coverage MA program. BEM 163 (July 2017), p. 1. The income limit for AD-Care for a one-person MA group is \$1,031.67 (100 percent of the Federal Poverty Level plus the \$20 disregard for RSDI income). RFT 242 (April 2018), p. 1; BEM 541 (January 2018), p. 3. G2S is an SSI-related Group 2 MA category. BEM 166 (April 2017), p.1. For Group 2, eligibility is possible even when net income exceeds the income limit. BEM 105, p. 1. This is because incurred medical expenses are used when determining eligibility for Group 2 categories. BEM 105, p. 1. Group 2 categories are considered a limited benefit because a deductible is possible. BEM 105, p. 1. The deductible is in the amount that the client's net income (less any allowable needs deductions) exceeds the applicable Group 2 MA protected income levels (PIL); the PIL is based on the client's MA fiscal group size and the county in which he resides. BEM 105, p. 1; BEM 166 (April 2017), pp. 1-2; BEM 544 (July 2016), p. 1; RFT 240 (December 2013), p. 1; RFT 200 (April 2017), p. 2.

The Department was not present at the hearing to explain why Petitioner was not eligible for Ad-Care or how her MA G2S deductible was calculated. Therefore, the Department failed to establish that it properly determined Petitioner's MA eligibility. Petitioner testified that the negative action regarding her MA benefit case was effective January 1, 2019. As such, the Department will be ordered to redetermine Petitioner's MA eligibility as of January 1, 2019.

DECISION AND ORDER

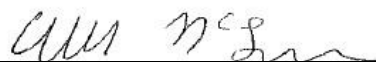
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner's MA eligibility.

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

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Redetermine Petitioner's MA eligibility as of January 1, 2019, ongoing;
2. If Petitioner is eligible for MA benefits, provide her with coverage she is entitled to receive as of January 1, 2019, ongoing; and
3. Notify Petitioner of its MA decision in writing.

EM/cg



Ellen McLemore
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

Via Email:

MDHHS-Oakland-3-Hearings
D. Smith
EQAD
BSC4- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

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