



STATE OF MICHIGAN

GRETCHEN WHITMER  
GOVERNOR

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

ORLENE HAWKS  
DIRECTOR

[REDACTED]

Date Mailed: May 22, 2019  
MOAHR Docket No.: 19-003280  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton**

**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, an in-person hearing was held on May 16, 2019, from Detroit, Michigan. Petitioner represented herself. The Department of Health and Human Services (Department) was represented by Candice Bennis, Hearing Facilitator.

**ISSUE**

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

**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 [REDACTED], 2019, applied for Food Assistance Program (FAP), Family Independence Program (FIP) and MA benefits.
2. Petitioner receives \$1,249.00 monthly in unearned income from the Social Security Administration (SSA).
3. Petitioner's [REDACTED]-year old daughter resides in the household.
4. On February 22, 2019, the Department sent Petitioner a Health Care Coverage Determination Notice which notified Petitioner that she was eligible for MA benefits subject to a monthly deductible.

5. On March 18, 2019, Petitioner filed 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.

Petitioner filed a Request for Hearing disputing FIP, FAP and MA benefits. During the course of the hearing, Petitioner testified that she did not wish for the undersigned to address any issues relating to her FIP and FAP benefits. The undersigned indicated that this request would be treated as a withdrawal with respect to FIP and FAP benefits only. As such, Petitioner's Request for Hearing relating to her FIP and FAP benefits is hereby **DISMISSED**.

On the record, the undersigned indicated that the Department would be ordered to redetermine Petitioner's eligibility for MA benefits. However, upon further review of policy, testimony and admitted exhibits, it is found that the Department properly determined that Petitioner was eligible for MA benefits subject to a deductible of \$720.00 per month. The analysis is provided below.

Petitioner asserted that her eligibility for MA benefits should be based upon a group size of two because her 19-year old mentally disabled daughter resides in her home. Petitioner testified that her daughter briefly left the home in October 2018 but returned to the home on a permanent basis in mid-January 2019. Petitioner further stated that her daughter had previously been deemed to be disabled and was receiving benefits through the Social Security Administration, those benefits have stopped. As of the day of the hearing, Petitioner was unsure of the reason that her daughter's SSI benefits ended.

This definition applies for MAGI cases which defines group size based on tax filings (the Petitioner and all dependents) or non-tax filer (head of household and all kids under 19 (under 21 if they go to school)). As such, the only MA program Ms. Dayne is eligible for is SSI-related due to her disability.

On February 22, 2019, the Department sent Petitioner a Health Care Determination Notice which notified Petitioner that she is eligible for MA benefits subject to a monthly deductible. Petitioner testified that her medical providers will not provide any treatment until her MA benefits are active and as such, she is not able to obtain an invoice for services in excess of her deductible amount which effectively does not permit her to receive the medical care she needs.

MA is available (i) to individuals who are aged (65 or older), blind or disabled under SSI-related categories, (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 (January 2016), p. 1.

Because Petitioner's only child in the household is age 19, Petitioner is ineligible for MA for parents. See BEM 110 (April 2018), p. 1; BEM 135 (October 2015), p. 3. The Department's policy does not include an exception for a child over the age 19 who has been deemed to be disabled. HMP is a MAGI-related MA category that 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 (January 2016), p. 1.

On January 17, 2019, the Department sent Petitioner a Health Care Coverage Determination Notice which notified Petitioner that she had been approved for the Medicare Savings Program effective February 1, 2019. Medicare Savings Programs are SSI-related MA categories. They are neither Group 1 nor Group 2. The three categories that make up the Medicare Savings Programs are:

1. Qualified Medicare Beneficiaries (QMB).
2. Specified Low-Income Medicare Beneficiaries (SLMB).
3. Q1 Additional Low-Income Medicare Beneficiaries (ALMB). BEM 165 (January 2018), p. 1.

Clients are only eligible for MSP if they are currently receiving Medicare benefits as MSP pays the Part B Medicare premium. Because Petitioner is receiving Medicare benefits, she is ineligible for HMP benefits.

Because Petitioner receives social security benefits due to a disability, she is eligible for MA under an SSI-related category. In this case, Petitioner testified that she receives SSA benefits in the amount of \$1,249.00 per month. Therefore, she is not income-eligible for full-coverage MA under the Ad-Care program. BEM 163 (July 2017), p. 2; RFT 242 (April 2019).

A person who has excess income for full-coverage MA may be eligible for Group 2 MA, which is MA subject to a monthly deductible. BEM 105 (April 2017), p. 1. In calculating the deductible, the Department considers Petitioner's net income. Petitioner is eligible for a \$20.00 unearned income disregard to Petitioner's income resulting in a net unearned income of \$1,229.00. See BEM 541 (January 2019), p. 3. Petitioner testified, and the Department confirmed, that since April 2019, she is no longer receiving MSP benefits. The Medicare Part B premium is approximately \$135.50. When the Medicare Part B premium is subtracted from Petitioner's net earned income, her countable income is \$1,093.50.

Clients are eligible for Group 2 MA coverage when their net income, less any allowable needs deductions, exceeds the applicable Group 2 MA protected income levels (PIL), which is based on the client's shelter area and fiscal group size. In such cases, the client is eligible for Group 2 MA coverage under the deductible program with the deductible equal to the amount that the client's monthly income exceeds the PIL.

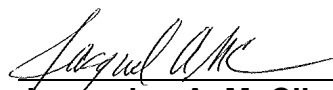
The monthly PIL for an MA fiscal group size of one living in Wayne County is \$375.00 per month. RFT 240 (December 2013), p. 1. Thus, if Petitioner's net income is in excess of \$375.00, she may become eligible for MA assistance subject to a deductible program. As discussed above, Petitioner's countable income totaled \$1,093.50. The evidence at the hearing established that Petitioner was not eligible for any further deductions. Because Petitioner's net income of \$1,093.50 exceeded the applicable \$375.00 PIL by \$719.00, the Department properly concluded that Petitioner was eligible for MA coverage subject to a monthly deductible effective February 1, 2019.

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 determined that Petitioner's group was ineligible for MA benefits subject to a monthly deductible effective February 1, 2019.

### **DECISION AND ORDER**

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

JAM/tlf



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**Jacquelyn A. McClinton**  
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 & Rules  
Reconsideration/Rehearing Request  
P.O. Box 30639  
Lansing, Michigan 48909-8139

**Via Email:**

MDHHS-Wayne-49-Hearings  
BSC4 Hearing Decisions  
EQAD  
D. Smith  
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**Petitioner – Via First-Class Mail:**

