



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

ORLENE HAWKS
DIRECTOR

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Date Mailed: May 22, 2019
MOAHR Docket No.: 19-004144
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 May 20, 2019, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Silvester Williams, Assistance Payments Supervisor.

ISSUE

Did the Department properly determine that Petitioner was only eligible for Medical Assistance (MA) Program benefits through the Group 2 Aged, Blind, or Disabled category?

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 has been diagnosed with terminal breast and cervical cancer.
2. On February 28, 2019, the Department received Petitioner's application for MA benefits listing a \$ [REDACTED] Retirement Survivors and Disability Insurance (RSDI) benefit.
3. On March 14, 2019, the Department issued a Health Care Coverage Determination Notice (HCCDN) to Petitioner notifying her that she was approved for MA with a deductible of \$ [REDACTED] in March 2019, and \$ [REDACTED] for April 2019, ongoing; she was denied Healthy Michigan Plan (HMP) based upon excess income and no

determination was made regarding her eligibility for the Breast and Cervical Cancer Prevention and Treatment Program (BCCPTP).

4. On March 20, 2019, the Department received Petitioner's request for hearing disputing the Department's determination that she was only eligible for MA with a 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 (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, the Department determined that Petitioner was eligible for MA benefits only with a deductible effective March 2019. In determining MA eligibility, the Department is required to determine the most beneficial category of MA coverage for the client. BEM 105 (April 2017), p. 2. Group 2 categories are considered to be limited benefit categories because of the deductible. BEM 105, p. 1. Therefore, Group 1 categories are always considered to be more beneficial than Group 2 categories because there is no deductible.

The Department initially considered Petitioner for eligibility under the Healthy Michigan Plan (HMP). 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.

HMP requires a determination of group size under the MAGI methodology with consideration of the client's tax status and dependents. BEM 211 (January 2016), p. 1. The household for a tax filer, who is not claimed as a tax dependent includes the individual, their spouse, and tax dependents. BEM 211, pp. 1-2. Petitioner has one tax dependent child. Therefore, Petitioner's MA group size is two. 133% of the FPL for a group size of two is \$22,490.30 as of January 11, 2019. See <https://aspe.hhs.gov/poverty-guidelines>.

Therefore, to be income eligible for HMP, Petitioner's annual income cannot exceed \$22,490.30 for a group size of two or \$1,874.19 per month.

To determine financial eligibility under HMP, income must be calculated in accordance with MAGI under federal tax law. MAGI is based on Internal Revenue Service rules and relies on federal tax information. BEM 500 (July 2017), p. 3. Income is verified via electronic federal data sources in compliance with MAGI methodology. MREM, § 1. In determining an individual's eligibility for MAGI-related MA, the Department bases financial eligibility on current monthly household income. MAGI is calculated by reviewing the client's adjusted gross income (AGI) and adding it to any tax-exempt foreign income, tax-exempt Social Security benefits, and tax-exempt interest. AGI is found on IRS Tax Form 1040 at line 37, Form 1040 EZ at line 4, and Form 1040A at line 21. *Id.* Alternatively, it is calculated by taking the "federal taxable wages" for each income earner in the household as shown on the paystub or, if not shown on the paystub, by using gross income before taxes reduced by any money the employer takes out for health coverage, childcare, or retirement savings. *Id.* See <https://www.healthcare.gov/income-and-household-information/how-to-report/>. Effective October 1, 2018, all RSDI income is countable for adults not claimed as dependents. BEM 503 (October 2018), p. 30. Petitioner's household income is therefore equivalent to her RSDI benefit of \$[REDACTED] per month which is greater than the HMP income limit.

An exception exists to the income limit rule. If an individual has group income which is close enough to the FPL, a disregard can be applied. The disregard is 5% of the FPL or \$845.50 for a group size of two. In looking at Petitioner's income, after the 5% disregard is applied, Petitioner is eligible for MA under the HMP. The Department did not act in accordance with Department policy in denying Petitioner MA benefits based upon the HMP income limit.

It should also be noted that Petitioner may be eligible for medical coverage under the BCCPTP. BCCPTP is a Group 1 MA category. BEM 173 (October 2016), p. 1. Therefore, it is more beneficial than the deductible program in which she was placed. Eligibility is determined through screening by a health department program called the Breast and Cervical Cancer Control Program. *Id.* The Department does not determine eligibility, instead it is done by the Medical Services Administration (MSA). *Id.* This program has an income limit of 250% of the FPL. BEM 173, p. 2. Other non-financial eligibility factors can be found in BEM 173. A woman who is already receiving MA will not be approved for BCCPTP. *Id.* However, if a woman found eligible under BCCPTP is enrolled in an MA deductible category, MSA will end the MA deductible status, open BCCPTP, and notify the local office. *Id.* Therefore, the Department should have made a referral for Petitioner to MSA to determine her eligibility for BCCPTP.

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 did not

act in accordance with Department policy when it placed Petitioner in an MA deductible program.

DECISION AND ORDER

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. Refer Petitioner to MSA for the BCCPTP;
2. Redetermine Petitioner's eligibility for MA benefits effective as of her application on February 28, 2019;
3. If Petitioner is eligible for MA benefits, issue supplements to Petitioner for benefits not previously received effective as of her application on February 28, 2019; and,
4. Notify Petitioner in writing of its decision.

AMTM/jaf



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 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

Linda Gooden
MDHHS-Oakland-6303-Hearings

Petitioner

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