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Date Mailed: June 6, 2019
MOAHR Docket No.: 19-004169
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 June 5, 2019, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Kathleen Hopper, Assistance Payments Supervisor, and Michell Moehle, Assistance Payments Worker.

ISSUE

Did the Department properly close Petitioner's Medical Assistance (MA) Program benefit due to failure meet the deductible in at least one of the previous three months?

Did the Department properly close Petitioner's Medicare Savings Program (MSP) benefits due to excess income?

FINDINGS OF FACT

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

1. The Department received copies of Petitioner's medical expenses on February 25, 2019, and March 7, 2019; the Department applied each of these medical expenses to Petitioner's deductible except for one expense for $20.00 from [redacted] Medical Group PC, which did not have date upon which the expense was incurred.

2. Petitioner completed the Redetermination process, and the Department confirmed via electronic resources as well as Petitioner's statements that he receives $[redacted] as a Retirement, Survivors and Disability Insurance (RSDI) benefit.

3. On April 1, 2019, the Department issued a Health Care Coverage Determination Notice (HCCDN) to Petitioner informing him that his MSP benefit would be closed effective May 1, 2019, because his income exceeded the program limit, and his MA benefit would close on the same day because he had not met his deductible in at least one of the previous three months.

4. On April 19, 2019, the Department received Petitioner's request for hearing disputing the closure of his MA and MSP benefit.

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's disputes the closure of both his MA benefit and his MSP benefit.

Petitioner's MSP benefit was closed due to excess income for the program. The MSP is divided into three subcategories. BEM 165 (January 2018), p. 1. Qualified Medicare Beneficiary (QMB) is the full coverage MSP. BEM 165, p. 1. Specified Low-Income Medicare Beneficiary (SLMB) is a limited coverage MSP. *Id*. The third MSP category is the Additional Low-Income Medicare Beneficiary (ALMB). *Id*. QMB pays for Medicare premiums, coinsurances, and deductibles. BEM 165, p. 2. SLMB pays Medicare Part B premiums. *Id*. ALMB pays for Medicare Part B premiums if funding is available. *Id*

Income determines placement in the programs. BEM 165, p. 1. For QMB, net income cannot exceed 100% of the federal poverty level, the same as AD-Care. *Id*. SLMB is available for individuals whose income is over 100% of the federal poverty level, but not more than 120% of the federal poverty level. *Id.* Finally, ALMB is available to those whose income exceeds 120% of the federal poverty level but does not exceed 135%.

Id. The 2018 federal poverty level and income limit for QMB for a one-person household is $12,490.00 or $1,041.00. https://aspe.hhs.gov/poverty-guidelines; RFT 242 (April 2019), p. 1. The income limit for SLMB is $14,988.00 or $1,249.00. *Id*. Finally, the income limit for ALMB is $16,861.50 or $1,406.00. *Id*. The net income limit is established through policy by subtracting $20.00 from the amount shown in RFT 242.

To determine the countable income for purposes of MSP benefits, the Department relies on the same policies as utilized for AD-Care and G2S: BEM 500, 501, 502, 503, 504, 530, 540, and 541. BEM 165 (January 2018), p. 8.

In determining the Ad-Care eligibility, the Department must determine Petitioner's MA fiscal group size and net income. Petitioner has a group size for Supplemental Security Income (SSI)-related MA purposes as there was no evidence presented that Petitioner is married living with a spouse. BEM 211 (January 2016), p. 8. Petitioner's total monthly income from RSDI is $[redacted]

Countable income is calculated by adding the amount of income actually received/available within the past month. BEM 530 (July 2017), p. 2. A review of the SSI-Related MA budget submitted by the Department shows that the Department properly considered Petitioner's RSDI income. The Department then properly applied the $20.00 general exclusion. BEM 541 (January 2019), p. 3. Therefore, Petitioner's net income is $[redacted] which is greater than the net income limit set by policy for all categories of the MSP. Petitioner is not eligible for the MSP.

The Department closed Petitioner's MA deductible case because he failed to meet the deductible in at least one of the previous three months. Policy provides that the Department should renew eligibility for active deductible cases at least every 12 months unless the group has not met its deductible within the past three months. BEM 545 (October 2018), p. 12. If a group has not met its deductible in at least one of the three calendar months before that month and none of the members are eligible for MSP, the group is automatically closed. *Id*.

Based upon the evidence submitted, Petitioner provided the Department with four bills, two of which are potentially the same bill. The first bill was from CVS Pharmacy for $25.58 for prescriptions on February 20, 2019. The next bill was from [redacted] for $[redacted] for services received on February 13, 2019. The third and fourth bills are from [redacted] for $[redacted] The first verification from [redacted] lists a service date of February 1, 2019, and a payment posting date of February 26, 2019; whereas, the second verification for the same amount from the same location does not list a service date but instead lists a statement date of February 17, 2019. Since the second verification does not provide a date of service, it cannot be distinguished as a separate bill from the bill for services on February 1, 2019. Therefore, the Department properly excluded it. After consideration of all of Petitioner's expenses, Petitioner has a total combined monthly medical expense for February 2019 in the amount of $[redacted] Petitioner's deductible in February 2019

was $[redacted] He did not incur sufficient medical expenses in February 2019 to activate his MA coverage.

Petitioner did not provide the Department with any additional medical expense verifications prior to the closure of his MA deductible case. The only expenses received were for February 2019. Therefore, Petitioner did not meet his deductible in February, March, or April of 2019; and the Department properly closed Petitioner's MA deductible case effective May 1, 2019.

At the hearing, Petitioner raised the issue of medical expenses paid by a third party which were submitted to the Department after the hearing request which the Department declined to consider. Since the Department was unaware of these expenses at the time of its decision on April 1, 2019, the Department could not make a determination of eligibility based upon these expenses and they were not considered for the hearing. However, it should be noted by both parties that when third parties pay a client's medical expenses, those medical expenses cannot be counted against the client's deductible except in limited circumstances. BEM 545, p. 19. Those exceptions are for third-party-resource payments made by:

- Indian health service.
- Payments made by a state- or locally-funded government program are not considered to be third party resource payments. State- and locally-funded government programs include those administered by:
    - County health departments.
    - Community Mental Health (CMH).
    - State and county DHHS.

BEM 545, p. 19. Any program that receives federal funds is not a state- or locally-funded program. *Id*. Payments made by these third party resources can be used to meet the beneficiary's deductible as follows:

- Count the entire expense for the month during which the service was provided.
- Count **only** the portion of the expense the client must actually pay when using an expense as an old bill; see EXHIBIT IB.

Id. Policy further notes that "all services and supports provided by a CMH program, including case management services, are considered medically necessary and all charges for these services should be applied fully to the client's monthly deductible obligation. BEM 545, p. 20.

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 closed Petitioner's MSP case due to excess

income and closed Petitioner's MA deductible case for failure to meet the deductible in at least one of the previous three months.

DECISION AND ORDER

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

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

Renee Swiercz
MDHHS-Oakland-IV-Hearings

Petitioner

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