



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

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Date Mailed: July 22, 2019
MOAHR Docket No.: 19-005476
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 three-way telephone hearing was held on July 11, 2019, from ████████ Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Teri Meeker.

ISSUE

Did the Department properly approve the Petitioner for Medicaid (MA) with a \$720.00 spenddown?

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 Petitioner is an ongoing recipient of MA with a spenddown of \$720.00 monthly.
2. The Department issued a Health Care Coverage Determination Notice on May 20, 2019 advising Petitioner she was not eligible for MA and found her income to be \$17,400.00. The Petitioner had previously received Supplemental Security Income (SSI). Exhibit A.
3. The Petitioner receives Retirement, Survivors and Disability Insurance (RSDI) from Social Security in the amount of \$1,114.00 monthly. The Petitioner does not currently receive any pension income from her deceased husband.

4. The Department issued a Health Care Coverage Determination Notice (HCCDN) on May 6, 2019 finding Petitioner eligible for the Medicare Savings Program (MSP) and Medicaid Group 2 S with a monthly deductible of \$720.00 a month.
5. The Petitioner requested a timely hearing on May 27, 2019 protesting the Department's actions closing her MA.

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 attributed and included income from a pension associated with Petitioner's deceased spouse which she is currently not receiving when determining her eligibility. The Department issued a HCCDN on May 20, 2019 advising Petitioner that she was not eligible for MA and incorrectly found her income to be \$17,400 annually. The Department's determination of income was incorrect, and there was no verification presented by the Department to establish the income. The Petitioner's current monthly income is from RSDI in the amount of \$1,114.00 monthly. At the hearing, the Department confirmed that it corrected its error and denial of Petitioner's Medicaid and provided an Eligibility Summary demonstrating that Petitioner is eligible for Medicaid Group 2 S subject to a \$720.00 spenddown monthly as of May 1, 2019 ongoing. Exhibit B.

Based upon the correction of Petitioner's income, there is nothing further to be decided as the Petitioner did not challenge the spenddown amount. As explained at the hearing, the spenddown is a monthly amount of medical expense that must be incurred before Petitioner is eligible for full coverage Medicaid. Because eligibility is reviewed monthly, the Petitioner must submit all her incurred out-of-pocket medical expenses to the Department each month so that they are counted toward meeting her deductible. Income eligibility exists for all or part of the month tested when the **medical group's** (defined in BEM 544, **EXHIBIT I**) allowable medical expenses (BEM 545, EXHIBIT I) equal or exceed the fiscal group's excess income [spenddown]. BEM 545 (July 2019), p. 3.

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 correctly determined the income attributable to Petitioner and corrected its finding that Petitioner was denied Medicaid based upon incorrect income; therefore, it is determined that the Department ultimately acted in accordance with Department policy when it determined her ongoing eligibility subject to a spenddown.

DECISION AND ORDER

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

LMF/jaf



Lynn M. Ferris

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 First Class Mail
Petitioner

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

Via Email
DHHS

Julie Claffey
MDHHS-Clare-Hearings

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EQAD