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GOVERNOR

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

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DIRECTOR

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Date Mailed: September 10, 2019
MOAHR Docket No.: 19-006650
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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 August 12, 2019, from ██████████ Michigan. Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Haysem Hosny, Eligibility Specialist/Hearing Coordinator.

ISSUE

Did the Department properly calculate the amount of Petitioner's Medical Assistance (MA) 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 or around January 4, 2019, Petitioner submitted an application for MA benefits.
2. On February 4, 2019, the Department sent Petitioner a Health Care Coverage Determination Notice (Notice) advising her that effective January 1, 2019, ongoing, she was eligible for MA with a monthly deductible of \$1,875. (Exhibit A, pp. 7-10)
3. Petitioner was approved for MA benefits under the Group 2 Aged Blind Disabled (G2S) category.
4. Petitioner's deductible increased to \$1,939 effective June 1, 2019. (Exhibit B)

5. On June 26, 2019, Petitioner requested a hearing disputing the Department's actions with respect her MA case. (Exhibit A, pp. 3-4)
6. Petitioner receives gross monthly unearned income from Retirement Survivors Disability Insurance (RSDI) benefits in the amount of \$2,367. Petitioner lives in Macomb County and has a MA fiscal group size of one member.

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 requested a hearing on June 26, 2019, disputing the Department's actions with respect to her MA case. Specifically, Petitioner indicated she did not agree with the amount of her deductible and the category of MA coverage she was approved for in connection with the January 4, 2019, MA application. Petitioner testified that from January 2019 to June 2019, she had two minor grandchildren living in her home. As of her request for hearing date, there were no minor children living in Petitioner's home. Additionally, during the hearing, the Department presented the Notice dated February 4, 2019 that advised Petitioner that her application was approved and effective January 1, 2019, she was eligible for MA with a monthly deductible of \$1,875.

Therefore, Petitioner had 90 days from the date of that written Notice to request a hearing to dispute the Department's processing of the application and her MA eligibility for January 2019, ongoing. See BAM 600. Because Petitioner's June 26, 2019, request for hearing was not filed within 90 days of the February 4, 2019 Notice, the undersigned Administrative Law Judge does not have the authority to address Petitioner's MA eligibility going back to January 2019.

It was established that Petitioner's MA deductible increased to \$1,939 effective June 1, 2019. Thus, the hearing proceeded with respect to Petitioner's MA eligibility and the calculation of her monthly deductible for June 2019, ongoing.

Petitioner, who has no minor children and receives RSDI based on a disability, is eligible for SSI-related MA, which is MA for individuals who are blind, disabled or over

age 65. BEM 105 (April 2017), p. 1. Individuals are eligible for Group 1 coverage, with no deductible, if their income falls below the income limit, and eligible for Group 2 coverage, with a deductible that must be satisfied before MA is activated, when their income exceeds the income limit. BEM 105, p. 1. Ad-Care coverage is a SSI-related Group 1 MA category which must be considered before determining Group 2 MA eligibility. BEM 163 (July 2017), p. 1. Eligibility for Ad-Care is based on the client meeting nonfinancial and financial eligibility criteria. BEM 163, pp. 1-2. The eligibility requirements for Group 2 MA and Group 1 MA Ad-Care are the same, other than income. BEM 166 (April 2017), pp. 1-2.

Income eligibility for the Ad-Care program is dependent on MA fiscal group size and net income which cannot exceed the income limit in RFT 242. BEM 163, p.2. Petitioner has a MA fiscal group of one. BEM 211 (February 2019), pp. 5-8. Effective April 1, 2019, a MA fiscal group with one member is income-eligible for full-coverage MA under the Ad-Care program if the group's net income is at or below \$1,061, which is 100 percent of the Federal Poverty Level, plus the \$20 disregard. RFT 242 (April 2017), p. 1.

The Department is to determine countable income according to SSI-related MA policies in BEM 500 and 530 *except* as explained in the countable RSDI section of BEM 163. The Department will also apply the deductions in BEM 540 (for children) or 541 (for adults) to countable income to determine net income. BEM 163, p. 2. The Department testified that in calculating Petitioner's countable income, it considered her gross monthly RSDI benefits in the amount of \$2,367, which Petitioner confirmed was accurate.

After further review of Department policy and based on the evidence presented at the hearing, because Petitioner's countable income exceeds the net income limit for the Ad-Care program, the Department acted in accordance with Department policy when it determined that Petitioner was ineligible for full coverage MA benefits under the Ad-Care program without a deductible and determined that she would be eligible for MA under the Group 2 Aged Blind Disabled (G2S) program with a monthly deductible.

Additionally, deductible is a process which allows a client with excess income to become eligible for Group 2 MA if sufficient allowable medical expenses are incurred. BEM 545 (October 2018), p. 10. Individuals are eligible for Group 2 MA coverage when net income (countable income minus allowable income deductions) does not exceed the applicable Group 2 MA protected income levels (PIL), which is based on shelter area and fiscal group size. BEM 105, pp. 1-2; BEM 166, pp. 1-2; BEM 544 (July 2016), p. 1; RFT 240 (December 2013), p. 1. The PIL is a set allowance for non-medical need items such as shelter, food and incidental expenses. BEM 544, p. 1. The monthly PIL for an MA group of one living in ██████████ County is \$408 per month. RFT 200 (April 2017), pp. 1-2; RFT 240, p. 1. Thus, if Petitioner's net monthly income is in excess of the \$408, she may become eligible for assistance under the deductible program, with the deductible being equal to the amount that her monthly income exceeds \$408. BEM 545, p. 1.

The Department produced an SSI-Related MA budget showing how the deductible in Petitioner's case was calculated. (Exhibit A, pp. 5-6). The Department testified that it determined Petitioner had unearned income in the total amount of \$2,367, which as referenced above properly consisted of her gross monthly RSDI benefits. Petitioner confirmed that she receives monthly RSDI in this amount. The budget shows that the Department properly subtracted the \$20 unearned income general exclusion to determine that Petitioner had net income for MA purposes of \$2,347.

There was no evidence presented that Petitioner was entitled to any other deductions to income, as she confirmed that she is not responsible for any out of pocket insurance premiums. Although Petitioner indicated that she had old medical expenses from Beaumont Hospital, there was no evidence that these bills or expenses were submitted to the Department for consideration at any point prior to the hearing. Thus, the Department properly did not apply any insurance premiums or medical expenses to Petitioner's net income. BEM 530, pp. 1-4; BEM 541, pp. 2-3; BEM 545.

Therefore, because Petitioner's countable income of \$2,347 for MA purposes exceeds the monthly protected income level of \$408 by \$1,939, the Department properly calculated Petitioner's monthly \$1,939 MA deductible in accordance with Department policy.

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 properly determined that Petitioner was eligible for MA under the G2S category with a monthly deductible.

DECISION AND ORDER

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



Zainab A. Baydoun
Administrative Law Judge
for Robert Gordon, Director
Department of Health and Human Services

ZB/tlf

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-Macomb-36-Hearings
BSC4 Hearing Decisions
EQAD
D. Best
MOAHR

Petitioner – Via First-Class Mail:

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