



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: August 23, 2019
MOAHR Docket No.: 19-006692
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: John Markey

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 7, 2019 from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by April Nemec, Hearings Facilitator. During the hearing, an 18-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-18.

ISSUE

Did the Department properly determine Petitioner's eligibility for Medicaid (MA) benefits, effective June 1, 2019?

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 was an ongoing recipient of MA benefits from the Department. Petitioner is a disabled adult in a household of one located in [REDACTED] County who has monthly unearned income totaling \$3,116.50. Petitioner is responsible for monthly medical premiums totaling \$135.50. Exhibit A, pp. 6-12.
2. On May 3, 2019, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that effective June 1, 2019, Petitioner was eligible for MA benefits from the Department subject to a monthly deductible of \$2,579. Exhibit A, pp. 13-16.

3. On ██████ 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's May 3, 2019 Health Care Coverage Determination Notice.

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 issued to Petitioner a May 3, 2019 Health Care Coverage Determination Notice informing Petitioner that effective June 1, 2019, Petitioner was eligible for MA benefits from the Department subject to a monthly deductible of \$2,579. Petitioner objected to the Department's determination of Petitioner's MA eligibility, effective June 1, 2019.

As a disabled and/or aged individual, Petitioner is potentially eligible to receive MA benefits through AD-Care. AD-Care is an SSI-related full-coverage MA program. BEM 163 (July 2017), p. 1. Petitioner's fiscal group size for SSI-related MA benefits is one. BEM 211 (February 2019), pp. 7-8. Petitioner's total income consists of unearned income of \$3,116 per month in RSDI and long-term disability. Income eligibility for AD-Care exists when countable income does not exceed the income limit for the program. BEM 163, p. 2. The monthly income limit for AD-Care for a one-person MA group is \$1,061 (100 percent of the Federal Poverty Level plus the \$20 disregard for RSDI income). RFT 242 (April 2019), p. 1; BEM 541, p. 3. Because Petitioner's monthly countable income exceeds \$1,061, the Department properly determined Petitioner to be ineligible for MA benefits under AD-Care.

Petitioner may still be eligible for MA benefits subject to a monthly deductible through the G2S program. G2S is an SSI-related MA category. BEM 166 (April 2017), p. 1. As stated above, Petitioner's SSI-related MA group size is one. Petitioner's net income is \$3,096 (gross income reduced by a \$20 disregard). BEM 541, p. 3.

The deductible is the amount that the client's net income (less any allowable needs deductions) exceeds the applicable G2S protected income levels (PIL); the PIL is based on the client's MA fiscal group size and the county in which he resides. BEM 105 (April 2017), p. 1; BEM 166, pp. 1-2; BEM 544 (July 2016), p. 1; RFT 240 (December 2013),

p. 1; RFT 200 (April 2017), p. 2. The monthly PIL for a client in Petitioner's position, with an MA fiscal group size of one living in Genesee County, is \$408 per month. RFT 200, p. 3; RFT 240, p 1. Thus, if Petitioner's monthly net income (less allowable needs deductions) is in excess of \$408, she is eligible for MA assistance under the deductible program, with the deductible equal to the amount that her monthly net income, less allowable deductions, exceeds \$408. BEM 545 (October 2018), pp. 2-3.

In determining the monthly deductible, net income is reduced by health insurance premiums paid by the MA group and remedial service allowances for individuals in adult foster care or homes for the aged. BEM 544, pp. 1-3. In this case, there is no evidence that Petitioner resides in an adult foster care home or home for the aged. However, the evidence does show that Petitioner is responsible for a health insurance premium of \$135.50 per month. Petitioner's monthly net income of \$3,096 reduced by the monthly insurance premium of \$135.50 results in a countable income figure of \$2,960. Petitioner's countable income of \$2,960 reduced by the \$408 protected income limit results in a monthly deductible figure of \$2,552.

The Department concluded that effective June 1, 2019, Petitioner was eligible for MA under the G2S program subject to a \$2,579 monthly deductible. As Petitioner is eligible for slightly more favorable MA coverage than the MA coverage the Department determined, the Department's decision with respect to Petitioner's MA benefits, effective June 1, 2019, cannot be sustained.

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 determined Petitioner's eligibility for MA benefits, effective June 1, 2019.

DECISION AND ORDER

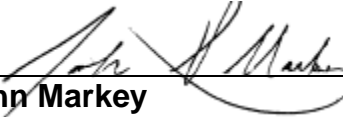
Accordingly, the Department's decision is **REVERSED**.

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. Redetermine Petitioner's eligibility for MA benefits, effective June 1, 2019, ongoing;
2. If Petitioner is eligible for additional benefits that were not provided, ensure that a supplement is promptly issued; and

3. Notify Petitioner in writing of its decisions.

JM/cg



John Markey
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 Email:

MDHHS-Genesee-Union St.-Hearings
D. Smith
EQAD
BSC2- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

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