



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: August 13, 2019
MOAHR Docket No.: 19-007400
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 telephone hearing was held on August 8, 2019, from [REDACTED] Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Michael O'Brien, Payments Program Manager.

ISSUE

Did the Department properly determine the Petitioner's Medical Assistance (MA) Spenddown amount?

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 was an ongoing recipient of Food Assistance Program (FAP), State Disability Assistance (SDA) and Medical Assistance (MA). At the hearing, the Petitioner withdrew her hearing request for FAP and SDA on the record as she no longer wanted a hearing regarding those benefits which were closed.
2. The Department filed a Change Report on March 15, 2019, advising the Department that she was receiving Retirement, Survivors and Disability Insurance (RSDI). Exhibit A.
3. The Petitioner is an ongoing recipient of MA subject to a deductible amount of \$1,145. The Petitioner receives RSDI from the Social Security Administration

(SSA) of \$1,506 monthly. At the time of its determination, the Department was still paying for Petitioner's Part B premium of \$135 monthly based upon her prior eligibility for AD-Care, full coverage Medicaid.

4. The Department issued a Health Care Coverage Determination Notice on June 25, 2019, which approved the Petitioner for MA with a monthly deductible of \$1,145. Exhibit D.
5. The Petitioner requested a timely hearing on July 8, 2019, protesting the Department's action imposing an ELIGIBMA 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, at the commencement of the hearing, the Petitioner acknowledged and withdrew her hearing request regarding her FAP benefit case closure as well as the Department's closure of her SDA case due to her receiving RSDI from the SSA.

The issue remaining regards whether the Department properly determined that the Petitioner, based on her income from RSDI, was no longer eligible for full coverage Medicaid, Ad-Care, and that she was eligible for MA with a deductible of \$1,145.

Medicaid is available (i) under Supplemental Security Income (SSI)-related categories to individuals who are aged (65 or older), blind or disabled, (ii) to individuals who are under age 19, parents or caretakers of children, or pregnant or recently pregnant women, and (iii) to individuals who meet the eligibility criteria for Healthy Michigan Plan (HMP) coverage. BEM 105 (April 2017), p. 1. 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 (January 2019), p. 1; MPM, Healthy Michigan Plan, § 1.1.

Petitioner is not under age 19 or pregnant. No evidence was presented that Petitioner is a parent or caretaker of a minor child, or former foster child. Therefore, the programs for each of these groups are inapplicable to the Petitioner. Since Petitioner is a Medicare Recipient and is disabled, she is not eligible for HMP.

In determining the SSI-related MA category Petitioner is eligible to receive, the Department must determine the MA fiscal group size and net income. Petitioner has a group for SSI-related MA purposes of one individual, herself. BEM 211 (February 2019), p. 8. Income for Petitioner must be considered in determining her MA eligibility. The Ad-Care program, an SSI-related MA category, requires that net group income cannot exceed 100% of the federal poverty level. BEM 163, pp. 1-2. The 2019 federal poverty level for a one-person household was \$12,490.00, effective April 1, 2019. <https://aspe.hhs.gov/poverty-guidelines>; <https://aspe.hhs.gov/2018-poverty-guidelines>. The net income limit is established through policy by subtracting \$20.00 from the amount shown in RFT 242 at \$1,041.00 for a group size of one effective April 1, 2019. See Exhibit F. RFT 242 (April 2018), p. 1.

Policy provides that countable RSDI for fiscal group members is the gross amount received for the previous December when the month being tested is January, February, or March. BEM 503 (January 2019), p. 29. In this case, the month being tested was March 2019. Federal law requires the cost-of-living (COLA) increase received in January to be disregarded for these three months. *Id.* The Department properly considered Petitioner's RSDI benefit for each month under evaluation.

Based upon the SOLQ and Petitioner's confirmation of her monthly income for Social Security to be \$1,506, the Petitioner's gross income exceeded the MA income limit of \$1,041. The Petitioner's net income was \$1,486 once the \$20 general exclusion was deducted and exceeded the MA income limit of \$1,041.

The Department applies a \$20 general exclusion and deducts this from the gross income. BEM 541 (January 2019), p. 3. Finally, no evidence was submitted regarding any Guardianship or Conservatorship expenses. Therefore, the household net income is \$1,486, which is greater than the net income limit and the federal poverty limit when net income is multiplied by 12. Petitioner thus due to her excess income is not eligible for the full coverage Ad-Care program. In addition, the Department was continuing to pay the Petitioner's Medicare Part B premium; and thus, she was not entitled to a further deduction from her deductible amount. The QMB benefits which pay the Part B premium, end in August 2019 at which time her deductible will be reduced due to her cost for the Part B premium of \$135.

Since Petitioner has excess income for eligibility under the Ad-Care program, the full coverage SSI-related MA program, an evaluation of Petitioner's eligibility for MA

coverage under the Group 2 program follows. Group 2 provides MA coverage with a deductible. BEM 105, p. 1.

The deductible is the amount that the client's net income (less any allowable deductions) exceeds the applicable Group 2 MA protected income level (PIL). PIL is a set allowance established by Department policy for non-medical need items such as shelter, food, and incidental expenses. BEM 544 (July 2016), p. 1. It is based on the client's MA fiscal group size and the county in which the client resides. *Id.* Petitioner resides in ██████ County and has a group size of one; therefore, the applicable PIL is the PIL for ██████ County which is \$341.00. RFT 200 (April 2017), p. 3; RFT 240 (December 2013), p. 1. Thus, if Petitioner's monthly net income (less allowable needs deductions) is in excess of \$341, Petitioner is eligible for MA under the G2S program with a deductible equal to the amount of income remaining after the appropriate and allowed deductions which are greater than \$341.

As discussed above, Petitioner's household net income was \$1,486. In calculating the deductible, allowances are made for health insurance premiums and remedial services. BEM 544, pp. 1-2. The Department did not include any Medicare premium as the Department pays Petitioner's Medicare Part B premium. Next, the PIL (protective income level) for ██████ County of \$341 is subtracted from her countable income to reach a deductible of \$1,145. See Exhibit E. The Petitioner argued at the hearing that the correct deductible should be the difference between her net income of \$1486 and the Medicaid income limit of \$1041. The Policy clearly states the deductible is based on the difference between the individuals net income after subtracting the Protected Income Level. The Medicaid income limit is just that it establishes a limit, which if the recipient's gross income exceeds, the individual is not eligible for full Medicaid.

Based upon the foregoing analysis and application of Department policy, it is determined that the Department properly imposed a spenddown on Petitioner's medical benefit coverage due to her income exceeding the Medicaid income limit and the spenddown in the amount of \$1,145 is correct as calculated by the Department.

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 imposed a monthly spenddown in the amount of \$1,145 when calculating the Petitioner's MA eligibility with a spenddown.

In addition, the Petitioner's hearing request dated July 8, 2019, regarding her FAP benefits and SDA benefits was withdrawn on the hearing record by Petitioner as she no longer wished to proceed with those hearings.

DECISION AND ORDER

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

The Petitioner's Hearing Requests for Food Assistance Program and State Disability Assistance are withdrawn.

IT IS SO ORDERED.

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 Electronic Mail
DHHS

Patricia Marx
MDHHS-Benzie-Hearings

BSC4
D Smith
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M Holden
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Via First Class Mail
Petitioner

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