



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: September 25, 2019
MOAHR Docket No.: 19-007789
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 26, 2019, from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Danielle Ridgeway, Eligibility Specialist.

ISSUE

Did the Department properly determine that Petitioner was eligible for Medical Assistance (MA) with a monthly deductible and did the Department properly process medical expenses to be applied to her monthly 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 October 26, 2018, the Department sent Petitioner a Health Care Coverage Determination Notice informing her that effective December 1, 2018, she was eligible for MA with a monthly deductible of \$1579. (Exhibit A, pp. 6-7)
2. Petitioner was approved for MA benefits under the Group 2 Aged Blind Disabled (G2S) category.
3. Petitioner's MA deductible increased to \$1638 effective August 1, 2019. (Exhibit A, pp. 14-20)

4. The Department determined that Petitioner did not meet her monthly MA deductible.
5. On July 16, 2019, Petitioner requested a hearing disputing the Department's actions with respect to her MA case. (Exhibit A, pp. 3-4)

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 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 asserted that she submitted medical expenses to be applied to her deductible that were not process by the Department for the period between October 2018 to December 2018 and from June 2019 to July 2019.

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 \$2,260 and \$529 in monthly child support, which Petitioner confirmed were 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.

While the Department failed to produce an SSI-Related MA budget showing how the deductible in Petitioner's case was calculated, the Department provided testimony regarding the income amounts and deductions considered. Upon thorough review, Petitioner's countable income for MA purposes exceeds the monthly protected income level. Therefore the Department properly determined that she would be subject to a monthly deductible.

Petitioner raised concerns at the hearing regarding the Department's failure to process medical expenses she submitted in February 2019 to be applied to her deductible for the months of October 2018, November 2018, and December 2018. Petitioner asserted that she provided her caseworker with copies of medical expenses incurred during those months and the expenses were not processed or applied to the monthly deductible as required. While the Department testified that Petitioner was previously eligible for full coverage MA for the months of October 2018 and November 2018 as her deductible did not begin until December 2018, Petitioner presented medical bills for review which suggested that she did not have active MA coverage for that time. (Exhibit 1). Additionally, it was unclear based on the eligibility summary presented by the

Department what type of MA coverage Petitioner was approved for during the months of October 2018 and November 2018. The eligibility summary indicates that Petitioner was approved for MA under the G2S category with a monthly deductible effective December 2018, however, her coverage for the months prior was unclear. (Exhibit A, p. 20). There was no evidence that the Department processed the expenses submitted by Petitioner and applied them to the appropriate months for her MA deductible. See BEM 545.

Petitioner further testified that she had inpatient hospitalizations during the months of June 2019 and July 2019. However, Petitioner confirmed that she did not provide the Department with verification of her inpatient hospitalization expenses until the day of the hearing. Although Petitioner's inpatient hospitalization would be sufficient to verify that she incurred expenses to meet her deductible, Petitioner did not establish that the Department failed to process the medical expenses and apply them towards her deductible for the months of June 2019 and July 2019, as the Department was not aware of the expense until the hearing date.

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 determined that Petitioner was eligible for with a monthly deductible but failed to show that it processed medical expenses she incurred and applied them to her monthly MA deductible for the months of October 2018, November 2018, and December 2018.

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. Process Petitioner's medical expenses incurred and apply them towards her MA deductible for the applicable months;
2. Activate Petitioner's MA coverage for the months during which her MA deductible was met, in accordance with the above and in accordance with Department policy;
3. Pay Petitioner's provider and supplement Petitioner for MA benefits that she was eligible to receive but did not for the applicable months; and

4. Notify Petitioner of its decision in writing.

ZB/tlf



Zainab A. Baydoun
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-Macomb-20-Hearings
BSC4 Hearing Decisions
EQAD
D. Smith
MOAHR

Petitioner – Via First-Class Mail:

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