



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: September 17, 2019
MOAHR Docket No.: 19-008446
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 September 11, 2019, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by [REDACTED], Family Independence Manager.

ISSUE

Did the Department properly determine Petitioner's eligibility for Medical Assistance (MA) Program benefits?

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 is an ongoing MA recipient.
2. Petitioner has been enrolled in the Group 2-Aged, Blind, Disabled (G2S) MA category with a deductible since at least July 2018.
3. In June 2019, the Department reviewed Petitioner's MA eligibility.
4. On June 17, 2019, the Department issued a Health Care Coverage Determination Notice (HCCDN) to Petitioner informing her that she was eligible for the full coverage Medicare Savings Program (MSP) (to assist with cost of Medicare premiums and other Medicare expenses) and was eligible for MA benefits with a deductible of \$[REDACTED] per month effective July 1, 2019.

5. On July 29, 2019, the Department received Petitioner's request for hearing disputing the Department's determination of MA eligibility, her MA deductible, and the State Emergency Relief (SER) program.

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).

State Emergency Relief (SER)

The SER program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Department of Human Services) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049.

At the hearing, Petitioner testified that she did not intend to check the box for the SER program on her request for hearing. She further agreed with the Department that she did not have any pending applications or other issues with the Department related to the SER program since at least 2013. As a result, Petitioner requested to withdraw her hearing request as it relates to the SER program. The Department did not object. Petitioner's request for hearing as it relates to SER is DISMISSED.

Medical Assistance (MA) Program

The 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 disputed the Department's determination that she was no longer eligible for the full coverage Ad-Care program and that instead she was eligible for MA only with a deductible of [REDACTED] per month.

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 was 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, she is not eligible for HMP.

In determining the SSI-related MA category Petitioner is eligible to receive, the Department must determine Petitioner's MA fiscal group size and net income. Petitioner has a group size for SSI-related MA purposes of one as there was no evidence presented that Petitioner is married living with a spouse. BEM 211 (July 2019), p. 8. Petitioner's total monthly income is [REDACTED] as a result of her RSDI benefit.

The Ad-Care program, an SSI-related MA category, requires that net group income cannot exceed one hundred percent of the federal poverty level. BEM 163, pp. 1-2. The 2019 federal poverty level for a one-person household is \$12,490.00. <https://aspe.hhs.gov/poverty-guidelines>. The net income limit is established through policy by subtracting \$20.00 from the amount shown in RFT 242 at [REDACTED] for a group size of one effective April 1, 2019. RFT 242 (April 2019), p. 1. Countable income is calculated by adding the amounts of income actually received/available within the past month. BEM 530 (July 2017), p. 2. A review of the SSI-Related MA budget submitted by the Department shows that the Department properly considered Petitioner's RSDI income. The Department then properly applied the \$20.00 general exclusion. BEM 541 (January 2018), p. 3. Other deductions may include a disregard for earned income, guardianship or conservator expenses, and work expenses. BEM 541, p. 3. These are the only allowable deductions in determining eligibility for Ad-Care. Therefore, Petitioner's net income is [REDACTED], which is greater than the net income limit and the federal poverty limit when his net income multiplied by 12. Petitioner is not eligible for the full coverage Ad-Care program.

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 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 [REDACTED] County and has a group size of one; therefore, she is in shelter area VI, and her PIL is [REDACTED] 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 ██████, Petitioner is eligible for MA assistance under the G2S program with a deductible equal to the amount of income remaining after the appropriate and allowed deductions which are greater than ██████

As discussed above, Petitioner's net income was \$██████. In calculating the deductible, allowances are made for health insurance premiums and remedial services. BEM 544, pp. 1-2. These are the only allowable deductions when considering MA Group 2 eligibility. Remedial services produce the maximum reduction of physical and mental limitations, and restore an individual to their best possible functional level. BEM 544, p. 2. At a minimum, remedial services include basic self-care and rehabilitation training which teach and reinforce the following skills: dressing, grooming, eating, bathing, toileting, following simple instructions. *Id.* Petitioner agreed that she is not responsible for any additional insurance premiums or remedial care expenses. Next, the Petitioner's PIL of \$408.00 was subtracted to reach a deductible of ██████. The Department properly calculated Petitioner's deductible and determined Petitioner's MA eligibility in the G2S program.

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 Petitioner's eligibility for the MA program.

DECISION AND ORDER

Petitioner's request for hearing as it relates to the **SER** is **DISMISSED**.

The Department's decision is **AFFIRMED** as it relates the determination of **MA** eligibility.

AM/tm



Amanda M. T. Marler

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

DHHS

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

CC:

[REDACTED]
[REDACTED]
[REDACTED]