



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: December 4, 2019  
MOAHR Docket No.: 19-010987  
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 December 2, 2019 from Detroit, Michigan. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by Markita Mobley, Hearings Facilitator, and Gill Pinckney-Crawford, Eligibility Specialist. During the hearing, a 17-page packet of documents was offered and admitted as Exhibit A, pp. 1-17.

### **ISSUE**

Did the Department properly determine Petitioner's eligibility for Medicaid (MA) coverage from July 1, 2019 through July 31, 2019?

Did the Department properly determine Petitioner's eligibility for MA coverage, effective [REDACTED], 2019, ongoing?

### **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 [REDACTED] 2019, Petitioner submitted to the Department an application for MA and Medicare Savings Program (MSP) benefits.
2. Each month, Petitioner receives gross income of [REDACTED] from the [REDACTED] [REDACTED] and \$ [REDACTED] from the [REDACTED] Exhibit A, pp. 11-14.

3. Petitioner was also responsible for paying a Medicare Part B premium of \$[REDACTED] per month.<sup>1</sup>
4. On [REDACTED], 2019, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that he was eligible for MA benefits subject to a deductible. For the period from July 1, 2019 through July 31, 2019, the deductible was \$[REDACTED]. Effective [REDACTED], 2019, ongoing, Petitioner's monthly deductible was calculated to be \$[REDACTED]. Exhibit A, pp. 5-10.
5. On [REDACTED], 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's determination of Petitioner's MA eligibility.

### **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 objects to the Department's determination of his MA eligibility as communicated to him on the Department's [REDACTED], 2019 Health Care Coverage Determination Notice. Petitioner is over 65 years of age and receives a total of [REDACTED] per month in unearned income. During the relevant time period, Petitioner was also responsible for paying \$[REDACTED] per month for his Medicare Part B premiums. The Department determined that Petitioner was eligible for MA coverage subject to a \$[REDACTED] deductible from July 1, 2019 through July 31, 2019. Effective [REDACTED], 2019, ongoing, the Department determined that Petitioner was eligible for MA coverage subject to a [REDACTED] monthly deductible.

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. As Petitioner lives alone, per policy, Petitioner's fiscal group size for SSI-related MA benefits is one. BEM 211 (July 2019), pp. 7-8. Petitioner's total income consists of unearned income of [REDACTED] per month. The Department gives AD-

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<sup>1</sup> Effective [REDACTED] 2019, Petitioner was approved for the MSP, and the Department thereafter began paying the Medicare Part B premium.

Care budget credits for employment income, guardianship and/or conservator expenses and cost of living adjustments (COLA) (for January through March only). BEM 163, p. 2; BEM 541 (July 2019), p. 3. 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 \$ [REDACTED] (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 household income exceeds \$ [REDACTED], the Department properly determined Petitioner to be ineligible for MA benefits under the full-coverage AD-Care program.

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 \$ [REDACTED] (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 [REDACTED] County, is [REDACTED] per month. RFT 200, p. 2; RFT 240, p. 1. Thus, if Petitioner's monthly net income (less allowable needs deductions) is in excess of \$ [REDACTED], he is eligible for MA assistance under the deductible program, with the deductible equal to the amount that his monthly net income, less allowable deductions, exceeds [REDACTED]. BEM 545 (July 2019), 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 is responsible for costs of living in an adult foster care home or home for the aged. However, Petitioner pays a monthly health insurance premium of \$ [REDACTED]. Therefore, he is eligible for a medical expense deduction, bringing the figure to \$ [REDACTED]. Petitioner's net income of \$ [REDACTED] reduced by the \$ [REDACTED] PIL equals \$ [REDACTED].

That is not what the Department concluded. Rather, the Department concluded that Petitioner was eligible for MA subject to a deductible of \$ [REDACTED] for the period from July 1, 2019 through July 31, 2019 and \$ [REDACTED] per month starting [REDACTED] 2019, ongoing. There appears to be no explanation for the reduction from \$ [REDACTED] to [REDACTED], and neither of the figures takes into account the deduction Petitioner should have received on account of his responsibility to pay his Medicare Part B premiums. Thus, the Department failed to follow policy in determining Petitioner's eligibility for MA benefits.<sup>2</sup>

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<sup>2</sup> Based on the evidence on the record, it appears as though Petitioner's MA benefits will in all likelihood have to be redetermined again due to the change in medical expenses that occurred after the Department approved Petitioner's MSP benefits case. That change, however, is not a subject of this hearing.

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 from July 1, 2019 through July 31, 2019 and for August 1, 2019, ongoing.

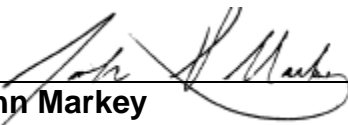
**DECISION AND ORDER**

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 [REDACTED], 2019, ongoing;
2. If there are any eligibility-related factors that remain unclear, contradictory, incomplete, or inconsistent, follow Department policy in obtaining verifications;
3. If Petitioner is eligible to receive additional benefits, ensure that a supplement is promptly issued; and
4. Notify Petitioner in writing of its decisions.

JM/tm

  
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**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

**DHHS**

Keisha Koger-Roper  
12140 Joseph Campau  
Hamtramck, MI  
48212

**Petitioner**

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

cc: ME—D. Smith; EQADHShearings  
AP Specialist-Wayne County