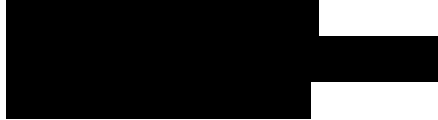




GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR



Date Mailed: February 26, 2020  
MOAHR Docket No.: 19-013284  
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, an in-person hearing was held on February 24, 2020 from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Valarie Foley, Hearings Facilitator.

### **ISSUE**

Did the Department properly determine Petitioner's eligibility for Medical Assistance (MA) Program benefits with a 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. Petitioner has been enrolled in MA Group 2-Aged, Blind, Disabled (G2S), a deductible category, since 2017.
2. Effective April 1, 2018, Petitioner was eligible for MA benefits with a deductible of \$773.00 per month.
3. Petitioner has been a recipient of the Medicare Savings Program (MSP) under the Specified Low-Income Medicare Beneficiary (SLMB) category since April 1, 2017.
4. Petitioner met her deductible from May 2018 through October 2018.
5. In October and November of 2018, Petitioner was receiving \$1,168.00 per month in Retirement, Survivors and Disability Insurance (RSDI) benefits.

6. In November 2018, the Department informed Petitioner that she had met her deductible effective November 19, 2018 and was eligible for full coverage MA from November 20, 2018 through November 30, 2018.
7. On November 20, 2018, the Department received a request for hearing from Petitioner disputing her MA coverage indicating she needed MA coverage for vision and dental care in addition to her submission of several medical bills.
8. The Department reviewed and processed the attached medical bills; however, the Department never forwarded Petitioner's request for hearing or a hearing was never scheduled by Michigan Office of Administrative Hearings and Rules (MOAHR) (then known as the Michigan Administrative Hearing System (MAHS)).
9. On December 11 and December 27 of 2019, the Department received a second and third request for hearing referencing her November 20, 2018 request for hearing which was never processed and indicating she needed dental and vision MA coverage.

### **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 disputes her MA coverage dating back to November 2018 and asserts that she has had no vision or dental coverage.

Since Petitioner's request for hearing from November 2018 was never processed by the Department or MOAHR, this decision will address her concerns dating back to the original request for hearing.

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 (April 2018) 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. Therefore, the only programs for which Petitioner may be eligible are the Supplemental Security Income (SSI)-related MA categories available to those who are aged, blind, or disabled.

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 (January 2016), p. 8. Petitioner's total gross monthly income is \$1,168.00 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 2018 federal poverty level for a one-person household is \$12,140.00. <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 \$1,031.67 for a group size of one effective April 1, 2018. RFT 242 (April 2018), 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. In 2018, Petitioner was receiving \$1,168.00 in RSDI benefits per month. After consideration of her gross RSDI benefit, the \$20.00 general exclusion is applied. BEM 541 (November 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 but are not applicable in this case. Therefore, Petitioner's net income is \$1,148.00, which is greater than the net income limit and the federal poverty limit when her net income is multiplied by 12. Petitioner was not eligible for the full coverage Ad-Care program in November 2018.

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] and has a group size of one; therefore, she is in shelter area IV, and her PIL is \$375.00. 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 \$375.00, 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 greater than \$375.00.

As discussed above, Petitioner's net income was \$1,148.00. 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-Aged, Blind, Disabled (G2S) 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 is not responsible for the cost of insurance premiums or remedial services. Next, the Petitioner's PIL of \$375.00 is subtracted to reach a deductible of \$773.00. The Department properly placed Petitioner's in the G2S program effective November 2018 and calculated her deductible.

Since Petitioner is properly placed in the deductible program, Petitioner is only eligible for full coverage MA benefits once her deductible is met each month. In order to receive the benefits of MA with a deductible program, Petitioner's allowable medial expenses must equal or exceed her excess income (her deductible). BEM 545 (October 2018), p. 1. In order to be eligible for the entire month, Petitioner must have old bills (that have not previously been submitted to the Department) which equal or exceed the deductible for the month tested, have personal care services in her home or in a Home for the Aged (HA), have a hospitalization, or be in Long-Term Care (LTC). *Id.* If Petitioner does not meet one of these categories, eligibility for coverage begins on the day of the month that allowable expenses exceed the deductible or the day after the day of the month allowable expenses equal the deductible. *Id.*

To meet or exceed the deductible, Petitioner must verify allowable medical expenses to the Department in order to determine her eligibility and activation of her MA coverage by the Department. BEM 545, p. 15. A medical expense must be incurred for a medical service which includes by is not limited to services provided by a dentist, oral surgeon, ophthalmologist, and optometrist. BEM 545, p. 17. Other eligible medical services include costs of diabetes education programs, transportation for medical reasons, laboratory services, doctors, nurses, prescriptions, some over the counter medications if prescribed by a doctor, some medical supplies, and other items. BEM 545, pp. 17-18. However, even though Petitioner can submit these as eligible and allowable medical expenses to meet her deductible each month, these services may not be considered

covered medical expenses once her MA coverage is activated after meeting her deductible. In order to determine covered services, Petitioner should contact the Medicaid Beneficiary Helpline at 1-800-642-3195. BAM 402 (April 2018), p. 18. Even if dental and vision services are not covered by Petitioner's type of MA coverage, Petitioner may use the dental and vision expenses to reach her MA deductible and receive coverage for other types of medical expenses that she was previously using to reach the monthly deductible.

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 placed Petitioner in the G2S MA category and calculated her monthly deductible.

### **DECISION AND ORDER**

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



AMTM/jaf

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**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**

Susan Noel  
MDHHS-Wayne-19-Hearings  
BSC4  
D Smith  
EQAD

**Petitioner**

