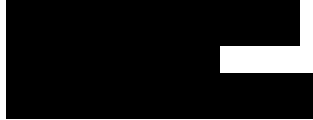




GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR



Date Mailed: February 5, 2020
MOAHR Docket No.: 19-013289
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 January 30, 2020, from Detroit, Michigan. Petitioner was present with his wife, [REDACTED]. The Department of Health and Human Services (Department) was represented by Lisa Smith, Eligibility Specialist. Also present was Spanish interpreter, Azael Carrillo.

ISSUE

Did the Department properly determine Petitioner and Petitioner's wife's Medical Assistance (MA) eligibility?

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 an application for MA benefits on behalf of himself and his wife.
2. At the time of the application, Petitioner had Retirement, Survivors and Disability Insurance (RSDI) in the monthly gross amount of \$[REDACTED] (Exhibit A, pp. 18-20).
3. At the time of the application, Petitioner's wife had RSDI benefits in the monthly gross amount of \$[REDACTED] (Exhibit A, pp. 21-23).
4. On October 22, 2019, the Department sent Petitioner a Health Care Coverage Determination Notice informing him that he and his wife were approved for MA

benefits subject to a monthly deductible of \$ [REDACTED] effective November 1, 2019, ongoing (Exhibit A, pp. 7-12).

5. On December 16, 2019, Petitioner submitted a request for hearing disputing the Department's actions.

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.

Petitioner submitted an application for MA benefits on [REDACTED], 2019, on behalf of himself and his wife. The Department determined Petitioner and his wife were eligible for MA benefits subject to a monthly deductible of \$ [REDACTED].

As disabled and/or aged individuals, Petitioner and his wife are 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 At the hearing the Department testified that Petitioner's RSDI benefit amount was \$ [REDACTED] and his wife's RSDI benefit amount was \$ [REDACTED]. However, according to the State Online Query (SOLQ) report, at the time of the application, Petitioner's RSDI benefit amount was \$ [REDACTED] and Petitioner wife's RSDI benefit amount was \$ [REDACTED]. The total household income was \$ [REDACTED]. As Petitioner and his wife are married, per policy, Petitioner's fiscal group size for SSI-related MA benefits is two. BEM 211 (January 2016), p. 8. The Department gives AD-Care budget credits for employment income, guardianship and/or conservator expenses and cost of living adjustments (COLA) (for January through March only). Petitioner did not allege any such factors were applicable. Income eligibility for AD-Care exists when countable income does not exceed the income limit for the program. BEM 163 (July 2017), p. 2. The income limit for AD-Care for a two-person MA group is \$ [REDACTED]. RFT 242 (April 2019), p. 1. Because Petitioner's and Petitioner's wife's monthly household income exceeds \$ [REDACTED], the Department properly determined Petitioner to be ineligible for MA benefits under AD-Care.

Petitioner and his wife may still receive MA benefits subject to a monthly deductible through a Group 2 Medicaid category. Petitioner and his wife are not the caretaker of

any minor children, and therefore, do not qualify for MA through the Group 2-Caretaker MA program.

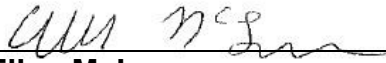
Petitioner and his wife may still receive MA benefits subject to a monthly deductible through the G2S program. G2S is an SSI-related MA category. BEM 166 (April 2017), p.1. As stated above, Petitioner's SSI-related MA group size is two. Petitioner's net income is \$█,█ (Petitioner's and Petitioner's wife's gross RSDI reduced by a \$20 disregard). BEM 541 (April 2017), p. 3. The deductible is in the amount that the client's net income (less any allowable needs deductions) exceeds the applicable Group 2 MA protected income levels (PIL); the PIL is based on the client's MA fiscal group size and the county in which she resides. BEM 105, p. 1; BEM 166 (April 2017), 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 two living in Wayne County, is \$500 per month. RFT 200, p. 3; RFT 240, p 1. Thus, if Petitioner's and Petitioner's wife's monthly net income (less allowable needs deductions) is in excess of \$500, they are eligible for MA assistance under the deductible program, with the deductible equal to the amount that their monthly net income, less allowable deductions, exceeds \$500. BEM 545 (January 2017), 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 was no evidence that Petitioner or his wife reside in an adult foster care home or home for the aged. Therefore, they are not eligible for any remedial service allowances. There was evidence that Petitioner was receiving Medicare Part B, but in the Health Care Coverage Determination Notice issued on October 22, 2019, Petitioner and his wife were approved for Medicare Savings Program (MSP) benefits. Additionally, the SOLQ shows the Medicare Part B buy-in date was November 1, 2019. Therefore, Petitioner and his wife would not be responsible for paying their Medicare Part B expenses. Petitioner's and Petitioner's wife's net income of \$█ reduced by the \$500 PIL is \$█. It is unclear how the Department calculated the \$1,154 deductible. However, the error was in Petitioner's and Petitioner's wife's favor. Thus, the error is harmless. Therefore, the Department properly determined that Petitioner is eligible for MA benefits under the G2S program subject to a monthly deductible of \$█.

DECISION AND ORDER

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 and Petitioner's wife's MA eligibility. Accordingly, the Department's decision is **AFFIRMED**.

EM/cg



Ellen McLemore
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-Wayne-15-Hearings
D. Smith
EQAD
BSC4- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

