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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: November 2, 2020  
MOAHR Docket No.: 20-005541  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**SUPERVISING ADMINISTRATIVE LAW JUDGE: Alice C. Elkin**

### **HEARING DECISION**

Following Petitioner's request for a hearing, an administrative hearing on this matter was held 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 hearing was conducted before Administrative Law Judge (ALJ) Lynn Ferris via telephone conference on October 1, 2020. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) did not appear for the hearing, and the hearing proceeded in the Department's absence. Because ALJ Ferris was unavailable to issue this decision, the record, including the recording of the hearing and exhibits, were reviewed by the undersigned who is issuing this decision pursuant to Rule 106(7) of the administrative hearing rules, Mich Admin Code, R 792.10106(7).

### **ISSUE**

Did the Department properly determine that Petitioner was eligible for Medicaid (MA) subject to a monthly 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 lives with her minor child. (Exhibit A, p. 11; Petitioner's testimony.)
2. Petitioner receives Retirement, Survivors and Disability Insurance (RSDI) social security benefits based on a disability. In 2019, she received \$1,438 in gross monthly RSDI benefits; in 2020, she receives \$1,460 in gross monthly RSDI benefits (Exhibit A, pp. 23-24; Petitioner's testimony).
3. Petitioner's son receives \$730 in gross monthly RSDI income based on Petitioner's receipt of RSDI (Petitioner's testimony).

4. In 2020, Petitioner pays \$144.50 in Medicare Part B premiums from her RSDI (Petitioner's testimony).
5. On November 7, 2019, following a delayed processing of Petitioner's March 28, 2019 redetermination, the Department sent Petitioner a Health Care Coverage Determination Notice notifying her that she was eligible for MA subject to a monthly \$659 deductible (Exhibit A, pp 9-22). The deductible was subsequently decreased to \$531 (Exhibit A, p. 25).
6. On [REDACTED] 2020, the Department received Petitioner's timely request for hearing, disputing her MA deductible (Exhibit A, p. 5).

### **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 requested a hearing to dispute the Department's notice to her that she was eligible for MA with a monthly deductible. The record showed that Petitioner was notified on November 7, 2019 that she was eligible for MA subject to a monthly \$659 deductible beginning December 2019 but that the deductible decreased to \$531 beginning October 2020. At the hearing, Petitioner clarified that she continued to dispute the \$531 monthly deductible.

Under federal law, Petitioner is entitled to the best available MA coverage she is eligible to receive based on her income and other eligibility criteria. BEM 105 (January 2020), p. 2. As a disabled individual, Petitioner may be eligible for MA under an SSI-related category. BEM 105, p. 1. Additionally, as the parent of a minor child, she may also be eligible for MA under the Parent/Caretaker/Relative (PCR) program under the Low-Income Family (LIF) category or, if she has excess income, under the Group 2 Caretaker (G2C) program. BEM 105, p. 1; BEM 110 (April 2018); BEM 135 (October 2015), p. 1. Because Petitioner pays a Part B Medicare premium in 2020, she is a Medicare recipient, and, as such, is not eligible for MA under the Healthy Michigan Plan. See BEM 137 (January 2020), p. 1.

LIF is a MAGI-related MA category. BEM 110, p. 2. For MAGI-related categories, group size for a tax filer who is not claimed as a tax dependent consists of the individual and the individual's tax dependents. BEM 211 (July 2019), pp. 1-2. Because the redetermination Petitioner submitted to the Department indicates she is a tax filer with one minor child, her group size for MAGI purposes is two.

An individual may be eligible for MA under the PCR LIF program if her monthly income is under 54% of the federal poverty level for the applicable group size. BEM 110 (April 2018), p. 1. Monthly income at 54% of the federal poverty level in 2020 for a two-person tax group is \$775.80. <https://aspe.hhs.gov/2020-poverty-guidelines>. Additionally, a 5% disregard equal to 5% of the federal poverty level for the applicable group size is applied to the highest income threshold only if required to make someone eligible for MA. Application of the 5% threshold increases the limit for PCR eligibility for a two-person group to \$814.59 monthly. When determining eligibility for MAGI-related MA, all RSDI income is countable to tax-filers and adults not claimed as dependents; a child/tax-dependent's RSDI is counted only if that child or tax-dependent is required to file taxes. BEM 503 (September 2020), p. 30. Because there was no evidence that Petitioner's son was required to file taxes, only Petitioner's income is considered in determining her eligibility for MA coverage under PCR. Because Petitioner's 2020 monthly RSDI benefits of \$1,460 exceed the limit for PCR eligibility, even after the 5% disregard is added, Petitioner is not eligible for MA under the PCR program.

Because Petitioner receives RSDI benefits due to a disability, she is also potentially eligible to receive full-coverage benefits under the Ad-Care program if she is income eligible based on her MA fiscal group size. BEM 163 (July 2017), pp. 1-2. Because Petitioner is unmarried, her fiscal group size for purposes of the Ad-Care program is one. BEM 211 (July 2019), p. 8. Starting April 2020, the income limit under the Ad-Care program where there is one member in the MA fiscal group is \$1,084. BEM 163, p. 2; RFT 242 (April 2020), p 1.

Only Petitioner's income, not her son's, is considered in determining income-eligibility for Ad-Care. BEM 211, p. 8. Petitioner received \$1,438 in monthly RSDI income in 2019 and \$1,460 in monthly RSDI income in 2020. (Exhibit A, p. 23), which Petitioner confirmed. This income, reduced by the \$20 disregard provided in policy, exceeds the income limit for Ad-Care eligibility. See BEM 541 (January 2020), p. 3. Therefore, Petitioner is not eligible for MA under the Ad-Care program.

Despite having excess income for Ad-Care eligibility, Petitioner was potentially eligible for MA coverage under a Group 2 deductible program, which provides for MA coverage subject to a monthly deductible for individuals with excess income. Because Petitioner is the parent of a minor child, the Group 2 Caretaker/Relative (G2C) MA program would provide the lowest deductible and, as such, is the most beneficial Group 2 deductible program Petitioner is eligible for. BEM 105, p. 2; BEM 135 (October 2015), p. 1. Under a deductible program, a client is eligible for MA coverage with a monthly deductible equal to the amount the individual's net income, calculated in accordance with the applicable Group 2 MA policy, exceeds the applicable Group 2 MA protected

income level (PIL). The PIL is based on the county in which the client resides and the client's fiscal MA group size. BEM 135, p. 2; BEM 544 (January 2020), p. 1. Petitioner's group size for G2C purposes is one. BEM 211, p. 9. The PIL for Macomb County, where Petitioner resides, for a one-person Group 2 MA group is \$408. RFT 200 (April 2017), p. 2; RFT 240 (December 2013), p. 1.

To show how the deductible for October 2020 ongoing was calculated, the Department prepared a G2-FIP Related MA budget for that period (Exhibit A, p. 25). In calculating Petitioner's income for G2C purposes, first Petitioner's prorated income must be calculated. Petitioner's prorated income is based on her gross monthly RSDI income and having one dependent (defined as a child under age 18) in the household. See BEM 536 (July 2019), pp. 1-7 (for calculating net income for Group 2 MA programs) and BEM 530 (July 2017), pp. 3-4 (for prospecting income for Group 2 MA programs). For purposes of the G2C program, Petitioner's prorated income for 2020 is calculated by dividing her gross monthly 2020 RSDI income of \$1,460 by 3.9, which is the applicable prorate divisor when there is one dependent in the household. Based on this calculation, the Department properly concluded that Petitioner's prorated income is \$374. Because Petitioner has a dependent, but not a spouse, in the household, this figure is multiplied by 2.9 to arrive at Petitioner's share of her own income. The result is \$1,084, consistent with that shown on the budget. When this figure is reduced by health insurance premiums incurred by Petitioner, which Petitioner testified were \$144.60 monthly, Petitioner has net income for G2C purposes of \$939. BEM 544, p. 1. Petitioner's net income of \$939 reduced by the \$408 PIL leaves her with \$531 in excess income. Accordingly, the Department properly determined that Petitioner was eligible for MA subject to a monthly \$531 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 determined that the best MA program Petitioner was eligible for was the G2C program with a monthly \$531 deductible.

### **DECISION AND ORDER**

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

ACE/tlf



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**Alice C. Elkin**  
Supervising 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 USPS:**

████████ ██████████  
██  
██

**Authorized Hearing Rep. – Via USPS:**

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