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GOVERNOR

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

ORLENE HAWKS
DIRECTOR



Date Mailed: December 2, 2020
MOAHR Docket No.: 20-006095
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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 November 4, 2020, from Detroit, Michigan. Petitioner appeared for the hearing and represented himself. The Department of Health and Human Services (Department) was represented by Aundrea Jones, Hearing Facilitator.

ISSUE

Did the Department properly determine that Petitioner was eligible for Medical Assistance (MA) with 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. In 2017, Petitioner was previously approved for MA benefits under the Freedom to Work (FTW) category without a monthly deductible. In or around January 2018, Petitioner's MA coverage was transferred to the Group 2 Aged Blind Disabled (G2S) category with a monthly deductible of \$796.
2. Petitioner was an ongoing recipient of Medicare Savings Program (MSP) benefits under the Specified Low-Income Medicare Beneficiaries (SLMB) category.
3. On or around May 3, 2019, the Department sent Petitioner a Health Care Coverage Determination Notice advising him that effective June 1, 2019, his MA case under the G2S category would be closed.

4. The Department reviewed its eligibility summary and confirmed that Petitioner did not have active MA coverage under the G2S or any other category since June 1, 2019; however, he continued to be approved for MSP benefits.
5. In connection with a redetermination, Petitioner's eligibility for MSP benefits was reviewed in May 2020 and he was approved for continued MSP benefits under the SLMB category.
6. In July 2020, Petitioner was notified by his medical provider that his MA coverage was no longer active. Petitioner contacted the Department and was instructed to reapply for MA benefits, as his case had been closed since June 2019.
7. On or around [REDACTED] 2020, Petitioner reapplied for MA benefits.
8. On August 24, 2020, the Department sent Petitioner a Health Care Coverage Determination Notice informing him that effective August 1, 2020, he was eligible for MA with a monthly deductible of \$883. Petitioner was approved for MA under the G2S category. (Exhibit A, pp. 7-10)
9. On September 14, 2020, Petitioner requested a hearing disputing the Department's actions with respect to his MA case, specifically, the amount of his MA deductible. (Exhibit A, pp. 3-4)

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.

MSP are SSI-related MA categories. There are three MSP categories: Qualified Medicare Beneficiaries (QMB); Specified Low-Income Medicare Beneficiaries (SLMB); and Additional Low-Income Beneficiaries (ALMB). BEM 165 (January 2018), p. 1. SLMB pays Medicare Part B premiums and ALMB pays Medicare Part B premiums provided funding is available. BEM 165, pp. 1-2.

In this case, Petitioner requested a hearing disputing the Department's actions with respect to his MA case, specifically, the imposition of a deductible effective August 1, 2020. Although there was some discussion at the hearing that Petitioner was previously approved for MA under the G2S category with a deductible and that his MA case closed effective June 1, 2019, Petitioner's testimony was such that he had full coverage active MA through Molina and used his benefits until July 2020 when he was notified at the doctor's office that his MA benefits had been terminated. Therefore, because Petitioner indicated he had full coverage MA until July 2020 and did not assert that he had any issues with his MA coverage prior to that time, the only dispute appeared to be with respect to his benefits effective August 1, 2020 and the \$883 deductible.

Petitioner, who has no minor children and receives RSDI based on a disability, is eligible for SSI-related MA, which is MA for individuals who are blind, disabled or over age 65. BEM 105 (January 2020), p. 1. Individuals are eligible for Group 1 coverage, with no deductible, if their income falls below the income limit, and eligible for Group 2 coverage, with a deductible that must be satisfied before MA is activated, when their income exceeds the income limit. BEM 105, p. 1. Ad-Care coverage is a SSI-related Group 1 MA category which must be considered before determining Group 2 MA eligibility. BEM 163 (July 2017), p. 1. Eligibility for Ad-Care is based on the client meeting nonfinancial and financial eligibility criteria. BEM 163, pp. 1-2. The eligibility requirements for Group 2 MA and Group 1 MA Ad-Care are the same, other than income. BEM 166 (April 2017), pp. 1-2.

Income eligibility for the Ad-Care program is dependent on MA fiscal group size and net income which cannot exceed the income limit in RFT 242. BEM 163, p. 2. Petitioner has a MA fiscal group of one. BEM 211 (July 2019), pp. 5-8. Effective April 1, 2020, an MA fiscal group with one member is income-eligible for full-coverage MA under the Ad-Care program if the group's net income is at or below \$1,084, which is 100 percent of the Federal Poverty Level, plus the \$20 disregard. RFT 242 (April 2020), p. 1.

The Department is to determine countable income according to SSI-related MA policies in BEM 500 and 530 *except* as explained in the countable RSDI section of BEM 163. The Department will also apply the deductions in BEM 540 (for children) or 541 (for adults) to countable income to determine net income. BEM 163, p. 2. The Department testified that in calculating Petitioner's countable income, it considered his gross monthly RSDI benefits in the amount of \$1,278, which Petitioner confirmed was accurate.

After further review of Department policy and based on the evidence presented at the hearing, because Petitioner's countable income exceeds the net income limit for the Ad-Care program, the Department acted in accordance with Department policy when it determined that Petitioner was ineligible for full coverage MA benefits under the Ad-Care program without a deductible and determined that he would be eligible for MA under the Group 2 Aged Blind Disabled (G2S) program with a monthly deductible.

Additionally, deductible is a process which allows a client with excess income to become eligible for Group 2 MA if sufficient allowable medical expenses are incurred. BEM 545 (July 2019), p. 10. Individuals are eligible for Group 2 MA coverage when net income (countable income minus allowable income deductions) does not exceed the applicable Group 2 MA protected income levels (PIL), which is based on shelter area and fiscal group size. BEM 105, pp. 1-2; BEM 166, pp. 1-2; BEM 544 (January 2020), p. 1; RFT 240 (December 2013), p. 1. The PIL is a set allowance for non-medical need items such as shelter, food and incidental expenses. BEM 544, p. 1. The monthly PIL for an MA group of one living in ██████ County is \$375 per month. RFT 200 (April 2017), pp. 1-2; RFT 240, p. 1. Thus, if Petitioner's net monthly income is in excess of the \$375, he may become eligible for assistance under the deductible program, with the deductible being equal to the amount that his monthly income exceeds \$375. BEM 545, p. 1.

While the Department did not produce an SSI-Related MA budget showing how the deductible in Petitioner's case was calculated, Ms. Jones provided detailed testimony regarding the income amount relied upon and applicable deductions. The Department testified that it relied on the income figures identified above (RSDI of \$1,278) and it was established that the Department properly subtracted the \$20 unearned income general exclusion to determine that Petitioner had net income for MA purposes of \$█████.

Because the State of Michigan was responsible for paying Petitioner's Medicare Part B premiums through the MSP SLMB category, and no evidence was presented that Petitioner was responsible for additional insurance premiums, a deduction to income or health insurance premiums was not considered. There was no evidence that Petitioner was entitled to any other deductions to income. BEM 530, pp. 1-4; BEM 541, pp. 2-3; BEM 545. There was also no evidence that Petitioner submitted any medical bills or expenses to the Department for consideration at any point prior to the hearing. Thus, the Department properly did not apply any medical expenses to Petitioner's net income. BEM 530, pp. 1-4; BEM 541, pp. 2-3; BEM 545.


Therefore, because Petitioner's countable income of \$█████ for MA purposes exceeds the monthly protected income level of \$375 by \$█████ the Department properly calculated Petitioner's monthly \$883 MA deductible in accordance with Department policy.

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 properly determined that Petitioner was eligible for MA under the G2S category with a monthly deductible of \$883 effective August 1, 2020.

DECISION AND ORDER

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

ZB/cc



Zainab A. Baydoun
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-18-Hearings
BSC4-HearingDecisions
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EQADHearings
MOAHR

Petitioner- Via USPS:

