



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

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Date Mailed: August 27, 2021  
MOAHR Docket No.: 21-003339  
Agency No.: ██████████  
Petitioner: ██████████

**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 August 23, 2021, from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. A representative from the Department of Health and Human Services (Department) was not present for the hearing and the hearing was held in the Department's absence.

**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 ██████████ 2021, Petitioner applied for MA benefits, with a request for retroactive MA coverage.
2. Petitioner confirmed that she receives gross monthly income from Retirement Survivors Disability Insurance (RSDI) or Social Security in the amount of \$████████.
3. The Department approved Petitioner for MA with a monthly deductible.
4. Petitioner asserted that she has monthly ongoing medical expenses and had three inpatient hospitalizations.

5. On July 6, 2021, Petitioner requested a hearing disputing the Department's actions with respect to her MA case, specifically, the amount of her deductible and the application of medical expenses to her deductible.

### **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, the Department was not present for the hearing and thus, did not present any evidence in support of its determination that Petitioner was eligible for MA benefits with a monthly deductible, the amount of the deductible, or the medical expenses processed and considered towards Petitioner's deductible. At the hearing, the undersigned read the Hearing Summary prepared by the Department in response to Petitioner's request for hearing into the hearing record. According to the Hearing Summary, the Department processed the application and all submitted medical bills were updated. The Hearing Summary further indicates that Petitioner was denied full coverage MA because her RSDI income of \$█████ was over the income limit for her group size. The Hearing Summary states that Petitioner was approved for a spend down plan or deductible of \$1,922 per month. Petitioner disputed that she had excess income and asserted that she did not agree with the deductible amount.

Petitioner, who has no minor children, is over age ███, is enrolled in Medicare, and receives RSDI, is eligible for SSI-related MA, which is MA for individuals who are blind, disabled or over age 65. BEM 105 (January 2021), 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's Hearing Summary indicates that it considered Petitioner's gross monthly RSDI benefits in the amount of \$██████, which Petitioner confirmed was accurate.

After further review of Department policy and based on the testimony provided by Petitioner 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 Wayne 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, she may become eligible for assistance under the deductible program, with the deductible being equal to the amount that her monthly income exceeds \$375. BEM 545, p. 1.

Although the Hearing Summary indicates that Petitioner was determined to have a monthly deductible of \$1922 per month, the Department was not present to offer any testimony or documentary evidence in support of this calculation. Additionally, because an SSI-Related MA budget was not presented, it was unknown whether the Department considered any of the applicable deductions to income, including the unearned income general exclusion, health insurance premium deductions, and ongoing medical expenses or current/old bills. BEM 530, pp. 1-4; BEM 541, pp. 2-3; BEM 545.

Petitioner credibly testified that she has incurred various medical expenses that either meet or exceed her monthly deductible amount. She further testified that she was

hospitalized on three separate occasions including on various days in December 2020, January 2021, March 2021, and April 2021. Petitioner asserted that she submitted verification of these expenses and hospitalizations to the Department. However, again, because the Department was not present for the hearing, it was unknown whether these expenses were considered and applied to Petitioner's 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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated the amount of Petitioner's deductible for the retroactive MA application period, ongoing. The Department also failed to satisfy its burden of showing that it properly processed Petitioner's medical expenses and/or inpatient hospitalizations and applied the expenses to Petitioner's deductible. See BEM 545.

### **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. Reprocess Petitioner's [REDACTED] 2021, MA application, retroactive to December 2020, and determine Petitioner's MA eligibility from December 1, 2020, ongoing,
2. Provide Petitioner with MA coverage under the most beneficial category from December 1, 2020, ongoing, if otherwise eligible, in accordance with Department policy;
3. Process Petitioner's medical expenses/inpatient hospitalizations incurred and apply them towards her MA deductible for the applicable months;
4. Activate Petitioner's MA coverage for the months in which her MA deductible was met, in accordance with the above and in accordance with Department policy;
5. Pay Petitioner's provider and supplement Petitioner for MA benefits that she was eligible to receive but did not for the applicable months; and

6. Notify Petitioner of its decision in writing.



ZB/jem

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**Zainab A. Baydoun**  
Administrative Law Judge

