



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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██████████, MI ██████████

Date Mailed: March 22, 2022
MOAHR Docket No.: 22-000097
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Danielle Nuccio

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 hearing was held via Zoom on March 3, 2022. The Petitioner appeared and represented herself. The Department of Health and Human Services (MDHHS) was represented by Princess Ogundipe, Eligibility Specialist.

At the hearing, Petitioner waived her right to receiving and reviewing the 17-page hearing packet prior to the hearing and the packet was entered into evidence as MDHHS' Exhibit A. MDHHS testified they would e-mail Petitioner a hearing packet for her records. After the hearing concluded, MDHHS submitted MDHHS' Exhibit B and those documents, which was entered into evidence at the hearing and marked Exhibit B-1, Exhibit B-2, and Exhibit B-3.

ISSUE

Did MDHHS properly calculate Petitioner's Medicaid (MA) 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 is an ongoing Medicare recipient.
2. Petitioner received MA benefits under the Group 2 Aged Blind Disabled (G2S) category with a monthly deductible of \$1,068.00.
3. Petitioner reported that her household income consists of a retirement pension (Exhibit B-2) and Retirement, Survivors, Disability Insurance (RSDI) from the

Social Security Administration (Exhibit B-3). Petitioner is responsible for her own Medicare premiums.

4. On [REDACTED], 2022, MDHHS issued a Health Care Coverage Determination Notice, notifying Petitioner that she was approved for the Medicare Savings Program (MSP) – ALMB (Exhibit B-1, pp. 1-3).
5. On January 10, 2022, MDHHS received Petitioner's hearing request regarding the calculation of her monthly spenddown amount.

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 her request for a hearing, Petitioner checked the box requesting a hearing regarding her Food Assistance Program (FAP) benefits. At the hearing, Petitioner stated that she has no dispute regarding her FAP case and wishes to withdraw that hearing request. Therefore, the FAP hearing request will be dismissed.

Petitioner requested a hearing regarding the calculation of her monthly deductible or spenddown amount of \$1,068.00 for MA.

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 [REDACTED]. 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 \$1,084.00, which is 100 percent of the Federal Poverty Level, plus the \$20.00 disregard. RFT 242 (November 2021), p. 1.

MDHHS 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. MDHHS 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. MDHHS testified that the income they relied upon was the total of Petitioner's monthly pension of \$ [REDACTED] (see Exhibit B-2) and monthly RSDI of \$ [REDACTED] (see Exhibit B-3). Petitioner confirmed that these amounts are correct, and she receives no other income. Since Petitioner's countable income exceeds the net income limit for the Ad-Care program, MDHHS 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 she would be eligible for MA under the Group 2 Aged Blind Disabled (G2S) program with a monthly deductible.

A spenddown or 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 (January 2022), 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 \$375.00 per month. RFT 200 (April 2017), pp. 1-2; RFT 240, p. 1. Therefore, if Petitioner's net monthly income is in excess of the PIL of \$ [REDACTED], she may become eligible for assistance under the deductible program, with the deductible being equal to the amount that her monthly income exceeds \$ [REDACTED]. BEM 545, p. 1.

MDHHS did not present a SSI-related MA budget to show how the deductible in Petitioner case was calculated. As stated, MDHHS relied upon Petitioner's monthly income total of \$ [REDACTED]. MDHHS was then required to consider deductions to Petitioner's income, with her net income reduced by the PIL.,. BEM 544, pp. 1-2. It is noted that the undersigned requested that any and all documents regarding the calculation of Petitioner's deductible be submitted as an exhibit at the conclusion of the hearing. No documentation of the budget that MDHHS relied on was submitted. Therefore, MDHHS has failed to satisfy its burden that it acted in accordance with policy in calculating 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 MDHHS failed to satisfy

its burden that it acted in accordance with policy in calculating Petitioner's deductible for G2S MA.

DECISION AND ORDER

Petitioner's hearing request for FAP is **DISMISSED**.

Accordingly, MDHHS' decision for MA 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. Recalculate Petitioner's MA deductible amount for January 2022 ongoing;
2. Provide Petitioner with MA coverage she is eligible to receive; and
3. Notify Petitioner in writing of its decision.



Danielle Nuccio
Administrative Law Judge

DN/mp

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

Email Recipients:

MDHHS-Wayne-18-Hearings
EQADhearings
C. George
MOAHR
BSC4

First-Class Mail Recipient:

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