



GRETCHEN WHITMER  
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: [REDACTED]  
MOAHR Docket No.: 22-003289  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Colleen Lack**

### **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 30, 2022, from Lansing, Michigan. [REDACTED], the Petitioner, appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Aley Haught, Assistance Payments Supervisor.

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-23.

### **ISSUE**

Did the Department properly Determine Petitioner's eligibility for Medical Assistance (MA)?

### **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] 2022, Petitioner submitted an application for MA. (Exhibit A, pp. 6-10)
2. On or about [REDACTED] 2022, Petitioner submitted a Health Care Coverage Supplemental Questionnaire. Petitioner did not report any medical expenses that she was responsible to pay. (Exhibit A, pp. 11-14)
3. The submitted verification of Social Security Administration (SSA) issued benefits showed a deduction for the Medicare insurance premium. (Exhibit A, p. 15)
4. The Department determined that Petitioner had a monthly spend down of \$998.00 for her MA coverage. (Exhibit A, p. 16)

5. On July 6, 2022, a Health Care Coverage Determination Notice was issued to Petitioner stating MA was approved effective June 1, 2022 with a \$998.00 monthly deductible. (Exhibit A, pp. 17-22)
6. On July 28, 2022, Petitioner filed a hearing request contesting the Department's determination regarding MA. (Exhibit A, pp. 4-5)

### **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.

The Department utilizes a Protected Income Level (PIL) in determining MA eligibility. The PIL is a set allowance for non-medical need items such as shelter, food and incidental expenses. BEM 544, January 1, 2020, p. 1. The Department does count allowable medical expenses, such as health insurance premiums, in the MA eligibility budget. BEM 544, pp. 1-2.

For SSI related adults, the only deductions allowed to countable income are for court-ordered child support, blind/impairment related work expenses, allocation to non-SSI related children, a \$20.00 disregard, an earned income disregard of \$65.00 plus ½ of the remaining earnings, and Guardianship/Conservator expenses. BEM 541, January 1, 2022, pp. 1-7.

A deductible, also referred to as the monthly spend down, 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 1, 2022, p. 10.

The Department determined that Petitioner had a monthly spend down of \$998.00 for her MA coverage. (Exhibit A, p. 16) The Department considered the verified income from SSA and the Medicare insurance premium expense. (Exhibit A, pp. 15-16)

Petitioner disagrees with the determination because the spend down is more than half of her income. Petitioner has to pay gas, water, lights, medical insurance, prescription insurance, and all the things she has to have a car or a house. Petitioner cannot afford

the monthly deductible amount. Further, with the treatment for the new cancer diagnosis, they do not bill all at once. The bill is spread out over whatever treatment you have. Petitioner also indicated that she has co-pays for prescriptions with the prescription insurance coverage. (Petitioner Testimony)

The above cited BEM 544 policy is clear that the PIL is used as a set allowance for non-medical need items such as shelter, food, and incidental expenses. The policy does not allow for consideration of an individual's actual expenses.


The submitted verification from SSA documented that there was no deduction for Petitioner's Medicare prescription coverage at that time. (Exhibit A, p. 15) Further, on the Health Care Coverage Supplemental Questionnaire Petitioner did not report any medical expenses that she was responsible to pay. (Exhibit A, p. 13) Accordingly, the Department properly included only the verified \$170.10 medical expense for the Medicare insurance premium when they determined Petitioner's eligibility for MA. (Exhibit A, p. 16) If she has not already done so, Petitioner may wish to submit verification of any additional allowable medical expenses to the Department for consideration in determining her ongoing eligibility.

Overall, the evidence establishes that the Department properly determined that Petitioner would have a monthly deductible for her MA coverage based on the information available at that time. The only allowable verified medical expense Petitioner had was for the health insurance premium, which was budgeted. Accordingly, the Department's MA determination must be upheld.

### **DECISION AND ORDER**

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

CL/cc

  
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**Colleen Lack**  
Administrative Law Judge

**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-Electronic Mail :**

**Interested Parties**

MDHHS-Kent-Hearings  
BSC3-HearingDecisions  
EQADHearings  
C. George  
MOAHR

**Via-First Class Mail :**

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED]