



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], MI [REDACTED]

Date Mailed: December 6, 2022
MOAHR Docket No.: 22-004627
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 November 9, 2022, from Lansing, Michigan. [REDACTED] the Petitioner, appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Lianne Scupholm, Hearing Facilitator (HF).

During the hearing proceeding, the Department's Hearing Summary packet was entered as Exhibit A, pp. 1-11 and Petitioner's hearing request with additional documentation was admitted as Exhibit 1, pp. 1-26.

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. In 2018, Petitioner was found disabled by the Social Security Administration dating back to November 1, 2015. (Exhibit 1, p. 1)
2. Recently, Petitioner was receiving Medicaid under the Group 2 Caretaker Relative (MA-G2C) category with a monthly deductible (formerly known as a spend-down) amount of \$492.00. (Exhibit A, pp. 1, 7, and 9; HF Testimony)

3. Petitioner's daughter turned [REDACTED] in [REDACTED] 2022 and was no longer considered a dependent child. (Exhibit A, p. 1; Exhibit 1, p. 1; HF Testimony)
4. The Department determined that Petitioner was now eligible for Medicaid under the Group 2 Aged, Blind, Disabled (MA-G2S) category based on her disability, and the amount of her monthly deductible increased. (Exhibit A, pp. 1, 8, and 10; HF Testimony)
5. On September 12, 2022, a Health Care Coverage Determination Notice was issued to Petitioner stating she was eligible for MA with a monthly deductible amount of \$877.00 effective October 1, 2022. (Exhibit A, pp. 3-6)
6. On September 30, 2022, Petitioner filed a hearing request contesting the Department's determination. (Exhibit 1, pp. 1-26)

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.

When it is determined that a recipient will no longer meet the eligibility criteria for FIP-related Medicaid, because of an actual or anticipated change, determine whether the recipient has indicated or demonstrated a disability (see glossary) as part of the ex parte review (see glossary).

- If the ex parte review reveals the recipient has already been determined disabled for purposes of qualifying for a disability-based Medicaid eligibility category, by the SSA or the department, and the determination is still valid, continue the recipient's Medicaid eligibility under the disability-based Medicaid category for which the recipient is otherwise eligible.

DEPENDENT CHILD DEFINED

A child is a dependent child when he meets all of the following conditions:

- The child is born.
- The child meets the FIP eligibility factors in the following items:
 - BEM 223, Social Security Numbers.
 - BEM 225, Citizenship/Alien Status.
 - BEM 270, Pursuit of Benefits.
- The child is a resident using Medicaid policy in BEM 220.
- The child meets the following age or age and school attendance requirement:
 - He must be under age 18;
 - or He must be age 18 and a full-time student in a high school or in the equivalent level of vocational or technical training as defined in FIP policy in BEM 245. He must be expected to complete his educational or training program before age 19.
- The child is: A FIP recipient.
 - A SSI recipient.
 - A Medicaid applicant.
 - Active Medicaid deductible.
 - A Medicaid beneficiary.
 - A MIChild beneficiary.

BEM 135, October 1, 2015, p. 3

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, January 1, 2020, 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.

Deductible is a process that 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.

Petitioner was receiving Medicaid under the Group 2 Caretaker Relative (MA-G2C) category with a monthly deductible amount of \$492.00. (Exhibit A, pp. 1, 7, and 9; HF Testimony)

Petitioner's daughter turned [REDACTED] in [REDACTED] 2022 and was no longer considered a dependent child. (Exhibit A, p. 1; Exhibit 1, p.1; HF Testimony) The above cited BEM 135 policy indicates Petitioner's daughter no longer met the definition of dependent child at age 19. However, at the time of the contested action, having turned age [REDACTED] Petitioner's daughter did not meet this definition. Accordingly, the Department properly reviewed whether Petitioner would be eligible for MA under another category.

The Department determined that Petitioner was now eligible for Medicaid under the Group 2 Aged, Blind, Disabled (MA-G2S) category based on her disability, and the amount of her monthly deductible increased. (Exhibit A, pp. 1, 8, and 10; HF Testimony) On September 12, 2022, a Health Care Coverage Determination Notice was issued to Petitioner stating she was eligible for MA with a monthly deductible amount of \$877.00 effective October 1, 2022. (Exhibit A, pp. 3-6)

Petitioner disagrees with the determination and cannot afford the \$877.00 monthly deductible. (Exhibit 1, pp. 1-26; 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 MA budget was reviewed with Petitioner during the hearing proceeding and no errors were noted. For example, Petitioner provided verification of her social security benefit amount and indicated she receives extra help that covers insurance premiums. (Exhibit A, p. 11; Petitioner Testimony) Overall, the evidence establishes that the Department properly determined Petitioner's eligibility for MA. Accordingly, the Department's MA determination must be upheld.

As indicated by the HF, Petitioner may wish to look into whether she is eligible for a Medicaid waiver program.

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 Petitioner's eligibility for MA.

DECISION AND ORDER

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

CL/ml



Colleen Lack
Administrative Law Judge

