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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: June 5, 2023
MOAHR Docket No.: 23-001428
Agency No.: ██████████
Petitioner: ██████████ a

ADMINISTRATIVE LAW JUDGE: Linda Jordan

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 on May 8, 2023 via teleconference. ██████████, Petitioner's Authorized Hearing Representative (AHR), appeared on behalf of Petitioner. Aley Haight, Assistance Payments Supervisor, and Patrick Campbell, Eligibility Specialist, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department).

ISSUE

Did MDHHS properly determine that Petitioner was eligible for full-coverage Medicaid (MA), effective December 17, 2022 ongoing, based on meeting the 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. On ██████████ 2022, Petitioner, a pregnant woman, attended her first prenatal appointment (Exhibit A, pp. 5, 29). Petitioner incurred medical expenses as a result of this visit (Exhibit A, p. 29). Petitioner incurred additional medical expenses for procedures and medical appointments related to her pregnancy, from ██████████ ██████████ 2022 through November 28, 2022 (Exhibit A, pp. 29-34).
2. On November 15, 2022, Petitioner applied for MA and requested retroactive MA for August, September, and October 2022 (Exhibit A, pp. 6-7). Petitioner reported that she was pregnant, with an expected due date of April 18, 2023 (Exhibit A, p. 9).

3. On November 22, 2022, MDHHS sent Petitioner a Health Care Coverage Determination Notice indicating that Petitioner was approved for MA with a deductible, beginning August 1, 2022 (Exhibit A, p. 22).
4. On December 17, 2022, Petitioner obtained a labor and delivery estimate from her health care provider (Exhibit A, p. 5). The estimated cost for labor and delivery was \$10,288.66 (Exhibit A, p. 35).
5. On January 23, 2023, MDHHS received the labor and delivery estimate from Petitioner (Exhibit A, p. 43).
6. On January 27, 2023, MDHHS sent Petitioner a Health Care Coverage Determination Notice indicating that she was approved for MA with a deductible, effective December 1, 2022 through December 16, 2022, and that she was approved for full-coverage MA, beginning December 17, 2022 ongoing (Exhibit A, p. 39).
7. On March 8, 2023, AHR requested a hearing to dispute the start date of Petitioner's full-coverage 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 Medicaid (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. MDHHS administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MA is also known as Medical Assistance. BEM 105 (January 2021), p. 1.

In this case, MDHHS approved Petitioner for Group 2 Pregnant Women (G2P) MA with a deductible, beginning August 1, 2022. Effective December 17, 2022, MDHHS approved Petitioner for full-coverage MA, because it determined that she met the deductible at that time. AHR asserted that Petitioner should have met the deductible on [REDACTED], 2022, which was the date of Petitioner's first prenatal visit.

MA is comprised of various sub-programs or categories, which have distinct eligibility criteria. BEM 105, p. 1. MA is available (i) under SSI-related categories to individuals who are aged (65 or older), blind or disabled, (ii) to individuals who are under age 19, parents or caretakers of children, or pregnant or recently pregnant women, and (iii) to individuals who meet the eligibility criteria for Healthy Michigan Plan (HMP) coverage.

BEM 105, p. 1; BEM 137 (June 2020), p. 1. Medicaid eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, MICHild, Flint Water Group and Healthy Michigan Plan is based on Modified Adjusted Gross Income (MAGI) methodology. BEM 105, p. 1. A person may qualify for coverage under more than one category. *Id.*, p. 2. Federal law gives the individual the right to choose the most beneficial category that results in eligibility and the least amount of cost-sharing. *Id.*

The terms “Group 1” and “Group 2” relate to financial eligibility factors. BEM 105, p. 1. For Group 1, net income (countable income minus allowable income deductions, which excludes medical expenses) must be at or below a certain income limit for eligibility to exist. *Id.* For Group 2, eligibility is possible even when net income exceeds the income limit for the program because medical expenses are considered when determining eligibility for Group 2 categories. *Id.* A person can be approved for a Group 2 category with a deductible. *Id.* Deductible MA allows a client with excess income to become eligible for Group 2 MA if sufficient allowable medical expenses are incurred. BEM 545 (July 2022), p. 10-11. Meeting a deductible means reporting and verifying allowable medical expenses that exceed the deductible amount in the calendar month being tested. *Id.* MDHHS is required to verify all medical expenses. *Id.*, p. 15. Verification sources include a bill or receipt from a medical provider, or contact with the medical provider or the provider’s billing service. *Id.*, p. 16.

At application, MDHHS determined that Petitioner was eligible for Group 2 Pregnant Women (G2P) MA. AHR did not dispute this determination. G2P MA is available for pregnant women who meet all eligibility factors listed in BEM 126 (April 2022), pp. 1-3. Income eligibility exists when net income does not exceed Group 2 needs, as defined in BEM 544. *Id.*, p. 2. If the net income exceeds Group 2 needs, MA eligibility is still possible with a deductible. *Id.* The deductible for a pregnant woman is usually met at the first office visit because the woman incurs the full cost of the obstetric (OB) services (including labor and delivery) at her first OB visit. *Id.*, BEM 545 (July 2022), pp. 1-2. The total cost of the OB services must be equal or greater than the amount of the deductible in order to open. *Id.* Her coverage should then be updated to MAGI-related Pregnant Women (PW) for the remainder of the pregnancy and twelve months post-partum. *Id.*, BEM 545.

AHR did not dispute MDHHS’ determination regarding Petitioner’s financial eligibility factors. AHR disputed the date in which Petitioner met her deductible. This is significant because the record shows that Petitioner incurred pregnancy-related medical expenses beginning [REDACTED] 2022, which was her first OB visit. However, MDHHS determined that she did not meet the deductible until the date that was listed on the labor and delivery estimate, which was December 17, 2022. Based on the medical records provided, the date of the estimate is not dispositive of when the costs relating to Petitioner’s pregnancy were actually incurred. Petitioner began incurring pregnancy-related costs at her first OB visit, which on [REDACTED] 2022. MDHHS did not allege or provide any evidence to show that the previous OB visits were excluded from the overall estimated costs of Petitioner’s labor and delivery. If MDHHS had questions

regarding when the labor and delivery expenses were first incurred or required clarification from Petitioner, it should have requested additional verifications or contacted Petitioner's provider directly, pursuant to BAM 130 (January 2022), p. 1 and BEM 545, p. 16. There is no evidence that it did so here.

Based on the evidence provided, including the medical records and testimony from AHR, Petitioner incurred the expenses related to labor and delivery from the time of her first OB visit, which was [REDACTED] 2022. Given that the estimated cost of the labor and delivery was \$10,288.66, Petitioner met her deductible of \$8,699.00 at that time.

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 of showing that it acted in accordance with Department policy when it determined that Petitioner met the deductible on December 17, 2022.

DECISION AND ORDER

Accordingly, MDHHS decision is **REVERSED**.

MDHHS 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. Redetermine Petitioner's MA eligibility subject to the finding that Petitioner met her deductible on September 26, 2022;
2. Provide full-coverage PW MA to Petitioner for each month that she was eligible, from [REDACTED], 2022, ongoing; and
3. Notify Petitioner of its decision in writing.

LJ/tm



Linda Jordan
Administrative Law Judge

