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GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA
ACTING DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: October 17, 2023
MOAHR Docket No.: 23-004390
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 telephone conference line on October 12, 2023. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Cindy Miller, specialist.

ISSUE

The issue is whether MDHHS properly determined Petitioner to be eligible for Medicaid subject to an ongoing \$988 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. As of July 2023, Petitioner was aged, unmarried, a recipient of Medicare, not pregnant, and not a caretaker to minor children.
2. As of July 2023, Petitioner received gross monthly Retirement, Survivors and Disability Insurance (RSDI) totaling \$ [REDACTED]
3. As of July 2023, Petitioner had no expenses for guardianship/conservatorship, insurance premiums, or remedial services.
4. On July 28, 2023, MDHHS determined Petitioner to be eligible for Medicaid subject to a monthly deductible of \$1,503 beginning September 2023.

5. On an unspecified date, MDHHS updated Petitioner's MA eligibility and determined Petitioner to be eligible for Medicaid subject to a monthly deductible of \$992 beginning September 2023.
6. On August 7, 2023, Petitioner requested a hearing to dispute MA eligibility.

CONCLUSIONS OF LAW

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. MDHHS administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MA policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute a reduction in MA eligibility. Exhibit A, pp. 3-6. A Health Care Coverage Determination Notice stated that Petitioner was eligible for MA beginning September 2023 subject to a monthly deductible.¹ Exhibit A, pp. 22-23. MDHHS credibly clarified that Petitioner's deductible was reduced to \$922 per month since the notice was issued.² To determine if a deductible was correctly calculated, a consideration of MA categories is necessary.

MA is also known as Medicaid. BEM 105 (January 2021) p. 1. The MA program includes several sub-programs or categories. *Id.* To receive MA under a Supplemental Security Income (SSI)-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. *Id.* Medicaid eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, MICHild and Healthy Michigan Plan is based on Modified Adjusted Gross Income (MAGI) methodology. *Id.*

Persons may qualify under more than one MA category. *Id.*, p. 2. Federal law gives them the right to the most beneficial category. *Id.* The most beneficial category is the one that results in eligibility, the least amount of excess income or the lowest cost share. *Id.*

As of the disputed benefit month, Petitioner was disabled and/or aged, a recipient of Medicare, not pregnant, and not a caretaker to minor children. Petitioner is not eligible for HMP due to receipt of Medicare (see BEM 137). As a disabled and/or aged individual, Petitioner is potentially eligible to receive MA benefits under the SSI-related category of Aged/Disability-Care (AD-Care).

¹ MDHHS credibly testified that Petitioner had been a recipient of Medicaid without a deductible. MDHHS explained that Petitioner's previous MA eligibility did not factor her spouse's RSDI.

² MDHHS explained that MA was updated after Petitioner reported that she stopped working.

MA categories are also split into categories of Group 1 and Group 2. *Id.*, p. 1. For Group 1, a group's net income must be at or below a certain income level for eligibility. *Id.* AD-Care is a Group 1 category. BEM 163 outlines the procedures for determining income eligibility under AD-Care.

It was not disputed that Petitioner was not married. As an unmarried individual, Petitioner's benefit group size for AD-Care is one. BEM 211 (July 2019) p. 8.

As of the disputed benefit month, Petitioner received gross monthly income totaling \$[REDACTED] from RSDI.³ Generally, MDHHS counts the gross amount of RSDI in determining MA eligibility.⁴ BEM 503 (April 2019), p. 28.

For SSI-Related MA categories, MDHHS is to apply the deductions allowed in BEM 541 for adults. BEM 163 (July 2017) p. 2. A \$20 disregard is given for unearned income. BEM 541 (July 2019) p. 3. Subtracting the \$20 disregard results in a net income of \$[REDACTED]

MDHHS gives AD-Care budget credits for employment income, guardianship expenses, and/or conservator expenses. Cost of living adjustments (COLA) are applicable for the benefit months of January through March only. BEM 503 (January 2019), p. 29. Petitioner did not allege any relevant expenses or credits.

Net income for AD-Care cannot exceed 100% of the federal poverty level. BEM 163 (July 2017) p. 2. In 2023, the annual federal poverty level for a 1-person group in Michigan is \$14,580.⁵ Dividing the annual amount by 12 results in a monthly income limit of \$1,215. The same income limit is found in policy.⁶ RFT 242 (April 2023) p. 1. Petitioner's countable income exceeds the AD-Care income limit. Thus, MDHHS properly determined Petitioner to be ineligible for MA under AD-Care.

Though Petitioner is ineligible for MA benefits under AD-Care or any other Group 1 category, Petitioner may still receive MA under a Group 2 category. For Group 2 categories, eligibility is possible even when net income exceeds the income limit for a Group 1 category; this is possible because incurred medical expenses are used when determining eligibility. *Id.* Group 2 categories are considered a limited MA benefit because a deductible is possible. *Id.* For aged/disabled persons, G2S is the applicable Group 2 Medicaid category (see BEM 166).

³ Petitioner received \$[REDACTED] in RSDI for herself and \$[REDACTED] from her late spouse.

⁴ Exceptions to counting gross RSDI include the following: certain former SSI recipients (e.g., disabled-adult children, 503 individuals, and early widowers), retroactive RSDI benefits, Medicare premium refunds, fee deductions made by qualified organizations acting as payee, and "returned benefits" (see BAM 500). No exceptions were applicable to the present case.

⁵ <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>

⁶ MDHHS policy lists an income limit of \$1,094 while noting that the \$20 disregard is already factored.

Clients with a deductible may receive MA if sufficient allowable medical expenses are incurred.⁷ BEM 545 (April 2018), p. 11. Each calendar month is a separate deductible period. *Id.* The fiscal group's monthly excess income is called the deductible amount. *Id.* Meeting a deductible means reporting and verifying allowable medical expenses that equal or exceed the deductible amount for the calendar month. *Id.*

Petitioner's gross countable income of \$ [REDACTED] is unchanged for G2S. The G2S budget allows a \$20 disregard for unearned income and various employment income disregards. The G2S budget also factors ongoing medical expenses (which are applied toward a deductible), insurance premiums, and remedial services. Petitioner claimed no insurance premiums.

A client's deductible is calculated by subtracting the protected income level (PIL) from the client's net income. A PIL is a standard allowance for non-medical need items such as shelter, food, and incidental expenses. The PIL for Petitioner's shelter area and group size is \$408. RFT 240 (December 2013) p. 1.

Subtracting the PIL and \$20 disregard from Petitioner's countable income results in a monthly deductible of \$992. MDHHS calculated the same deductible for Petitioner. Given the evidence, MDHHS properly determined Petitioner's MA eligibility.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly determined Petitioner to be eligible for Medicaid subject to a \$992 monthly deductible beginning September 2023. The actions taken by MDHHS are **AFFIRMED**.

CG/nr



Christian Gardocki
Administrative Law Judge

⁷ Clients should be fully aware that medical expenses need only be incurred, and not necessarily paid, to meet a deductible/spenddown.

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 :

DHHS
Chelsea McCune
Macomb County DHHS Warren Dist.
13041 E 10 Mile
Warren, MI 48089
**MDHHS-Macomb-20-
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Interested Parties
Macomb 20 County DHHS
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Via-First Class Mail :

Petitioner
[REDACTED]
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[REDACTED], MI [REDACTED]