



GRETCHEN WHITMER
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 3, 2023
MOAHR Docket No.: 23-004548
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 telephone hearing was held on September 13, 2023. Petitioner appeared and represented himself. The Department of Health and Human Services (MDHHS) was represented by Juanita Munoz, Hearings Facilitator.

ISSUE

Did MDHHS properly calculate Petitioner's Medicaid (MA) deductible amount?

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 MA recipient.
2. Petitioner is an ongoing recipient of Medicare.
3. Petitioner receives \$1,489.00 in monthly Retirement, Survivors, Disability Insurance (RSDI).
4. On June 12, 2023, MDHHS sent Petitioner a Health Care Coverage Determination Notice notifying Petitioner that, effective July 1, 2023, Petitioner was eligible for the Medicare Savings Program-SLMB and Group 2 SSI-related (G2S) Medicaid with a deductible amount of \$1,094.00 (Exhibit A, pp. 9-15).

5. On August 4, 2023, MDHHS received Petitioner's hearing request disputing his MA coverage (Exhibit A, pp. 16-18).

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 MA program is established by Title XIX of the Social Security Act, 42 USC 1396 *et seq*; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, PL 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, PL 111-152; 42 CFR 430.10 to 42 CFR 430.25; 42 CFR 431.200 to 431.250; and 42 CFR 438.400 to 438.424. MDHHS administers the MA program pursuant to 42 CFR 435, MCL 400.10 and MCL 400.103 to MCL 400.112k of the Social Welfare Act, MCL 400.1 *et seq*.

Upon reviewing Petitioner's eligibility criteria, MDHHS concluded that Petitioner is not eligible for full MA coverage but is eligible under the Group 2 Medicaid program with a \$1,094.00 deductible. Petitioner disputes the monthly deductible or spenddown amount.

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 65. 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, 2023, 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 \$1,235, which is 100 percent of the Federal Poverty Level, plus the \$20 disregard. RFT 242 (April 2023), 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 in calculating Petitioner's countable income, it considered his gross monthly RSDI benefits in the amount of \$1,489.00, which Petitioner confirmed was accurate.

After further review of Department policy and based on the evidence presented at the hearing, because 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 he would be eligible for MA under the Group 2 (G2) program with a monthly deductible.

The 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 (July 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 ██████ County is \$375.00 per month. RFT 200 (April 2017), pp. 1-2; RFT 240, p. 1. Thus, if Petitioner's net monthly income is in excess of \$375.00, then he may become eligible for assistance under the deductible program, with the deductible being equal to the amount that his monthly income exceeds \$375.00. BEM 545, p. 1.

MDHHS presented an SSI-Related MA budget showing how the deductible in Petitioner's case was calculated. (Exhibit A, p. 19). MDHHS testified that it relied on the income figures identified above, which were properly calculated and the budget shows that MDHHS properly subtracted the \$20 unearned income general exclusion to determine that Petitioner had net income for MA purposes of \$1,469.00. There was no evidence that Petitioner was entitled to any other deductions to income. Therefore, because Petitioner's countable income of \$1,469.00 for MA purposes exceeds the monthly protected income level of \$375.00 by \$1,094.00, MDHHS properly calculated Petitioner's monthly \$1,094.00 MA deductible in accordance with Department policy.

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 acted in accordance with Department policy when it determined Petitioner's MA eligibility and deductible amount.

DECISION AND ORDER

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



Danielle Nuccio
Administrative Law Judge

DN/tm

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
Tracy Felder
Wayne-Southwest-DHHS
2524 Clark Street
Detroit, MI 48209
**MDHHS-Wayne-41-
Hearings@michigan.gov**

Interested Parties

M. Schaefer
EQADHearings
BSC4

Petitioner

██████████
████████████████████
██████████, MI ██████████

Via-First Class Mail :