



STATE OF MICHIGAN

GRETCHEN WHITMER
GOVERNOR

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

MARLON I. BROWN, DPA
ACTING DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: November 9, 2023
MOAHR Docket No.: 23-005870
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

On September 13, 2023, Petitioner, [REDACTED] requested a hearing to dispute a Medical Assistance (MA) determination. As a result, a hearing was scheduled to be held on November 8, 2023, pursuant to MCL 400.9; 42 CFR 431.200 to 431.250; and Mich Admin Code, R 792.11002. Petitioner appeared at the hearing and represented herself. Respondent, Department of Health and Human Services (Department), did not appear. The hearing was held in Respondent's absence.

One exhibit was admitted into evidence during the hearing. A 19-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUE

Did the Department properly determine Petitioner's MA eligibility?

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 aged or disabled.
2. Petitioner does not have a spouse.
3. Petitioner receives gross income of [REDACTED] per month from social security RSDI.
4. Petitioner has Medicare coverage.

5. Petitioner does not pay a premium for Medicare Part B coverage.
6. Petitioner's [REDACTED]-year-old son lives with Petitioner, and he attends school full-time at [REDACTED].
7. On July 8, 2023, Petitioner submitted information to the Department to renew her eligibility for MA.
8. The Department reviewed Petitioner's case and determined that Petitioner was no longer eligible for full-coverage MA through the Healthy Michigan Plan because Petitioner qualifies for Medicare, and an individual who qualifies for Medicare is ineligible for coverage through the Healthy Michigan Plan. The Department calculated Petitioner's income and determined that Petitioner's income was over the limit for full-coverage AD Care coverage. The Department determined that the best MA coverage that Petitioner was eligible for was MA with a deductible.
9. On August 2, 2023, the Department mailed a health care coverage determination to Petitioner to notify Petitioner that she was eligible for MA coverage with a \$1,167.00 monthly deductible effective September 1, 2023.
10. Petitioner requested a hearing to dispute the Department's MA eligibility determination.

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 administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

Petitioner is disputing her health care coverage because she has a deductible, and she would like to have health care coverage without a deductible. Health care coverage is available without a deductible for those who meet program requirements. One of the programs that provides health care coverage without a deductible is the Healthy Michigan Plan. Petitioner previously had coverage through the Healthy Michigan Plan. However, Petitioner does not meet the program requirements for the Healthy Michigan Plan because Petitioner has Medicare, and coverage through the Healthy Michigan

Plan is limited to individuals who do not qualify for Medicare. BEM 137 (June 1, 2020), p.1.

Another program that provides health care coverage without a deductible is AD Care. In order for a client to be eligible for full-coverage AD Care, the client must be aged or disabled, and the client's group's net income must not exceed 100% of the Federal Poverty Limit (FPL). BEM 163 (July 1, 2017), p. 1-2. For AD Care, the client's group size consists of the client and the client's spouse. BEM 211 (July 1, 2019), p. 8. In this case, Petitioner's group just consists of Petitioner because Petitioner does not have a spouse. The FPL for a household size of one in 2023 is \$14,580.00. 88 FR 3424 (January 19, 2023). This is equal to a monthly income of [REDACTED].

When group members receive income from social security RSDI, the gross amount received from RSDI is countable. BEM 163 at p. 2. However, \$20.00 is disregarded from social security RSDI income. BEM 541 (January 1, 2023), p. 1. In this case, Petitioner received [REDACTED] per month from social security RSDI. After the \$20.00 disregard, the countable amount was [REDACTED] per month.

Although the income limit for AD Care states that it is based on "net income," this refers to gross income after allowable deductions. BEM 163 at p. 2. The allowable deductions are set forth in BEM 541 for adults, and Petitioner was not eligible for any of the allowable deductions other than the \$20.00 disregard. Thus, Petitioner's net income exceeded the limit for Petitioner to be eligible for full-coverage AD Care because the income limit was \$1,215.00 per month, and Petitioner's income was [REDACTED] per month. Therefore, the Department properly found that Petitioner was not eligible for full-coverage AD Care.

Since the Department found Petitioner ineligible for health care coverage without a deductible under the Healthy Michigan Plan and AD Care, the Department determined that the best available coverage for Petitioner was Group 2 MA. Group 2 MA provides health care coverage for any month that (a) an individual's countable income does not exceed the individual's needs as defined in policy, or (b) an individual's allowable medical expenses equal or exceed the amount of the individual's income that exceeds the individual's needs. BEM 166 (April 1, 2017), p. 2.

To determine whether an individual's income exceeds her needs, the Department determines the individual's countable income and needs. Countable income is the same as the income that is used to determine eligibility for AD Care without a deductible. Needs consist of a protected income limit set by policy, the cost of health insurance premiums, and the cost of remedial services. BEM 544 (January 1, 2020), p. 1-3.

The Department calculated Petitioner's excess income by subtracting the protected income limit from Petitioner's countable monthly income. As stated above, Petitioner's countable monthly income was [REDACTED]. The protected income limit for a household of one in Berrien County was \$375.00 per month. RFT 200 (April 1, 2017) and RFT 240

(December 1, 2013). There was no evidence that Petitioner paid health insurance premiums, and there was no evidence that Petitioner paid allowable remedial care expenses. Thus, Petitioner's excess income was [REDACTED] minus \$375.00, which equals [REDACTED] per month. The \$1,167.00 deductible amount determined by the Department is correct. Therefore, the Department's deductible will be upheld.

Since Petitioner has a deductible, Petitioner will only be eligible for health care coverage for any month that her allowable medical expenses equal or exceed her deductible amount. Petitioner did not present any evidence to establish that she had allowable medical expenses that equaled or exceeded her deductible amount. If Petitioner has outstanding medical expenses that equal or exceed her deductible amount, Petitioner should provide documentation of those expenses to the Department to obtain health care coverage.

DECISION AND ORDER

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 did act in accordance with its policies and the applicable law when it determined Petitioner's Medical Assistance eligibility.

IT IS ORDERED the Department's decision is **AFFIRMED**.

JK/ml



Jeffrey Kemm
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:

DHHS
Cindy Tomczak
Berrien County DHHS
401 Eighth Street
Benton Harbor, MI 49023
MDHHS-Berrien-Hearings@michigan.gov

Interested Parties
BSC3
M Schaefer
EQAD
MOAHR

Via First Class Mail:

Petitioner
[REDACTED]
MI