



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: December 11, 2023
MOAHR Docket No.: 23-007202
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 December 7, 2023, via conference line. Petitioner was represented by her Authorized Hearing Representative (AHR), [REDACTED]. The Department of Health and Human Services (Department) was represented by Alice Gilmer, Family Independence Manager and Tianna Moody, Eligibility Specialist.

ISSUE

Did the Department properly determine Petitioner's Medical Assistance (MA) benefit 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 was an ongoing MA recipient under the Extended Care (EC) MA program under the MI choice Waiver Program (Waiver Program).
2. On June 21, 2023, Petitioner's sister submitted a MI Choice Waiver Disenrollment Notification requesting that Petitioner be disenrolled from the Waiver Program (Exhibit A, p. 5).

3. On August 2, 2023, the Department sent Petitioner a Health Care Coverage Determination Notice informing her that she was approved for MA benefits subject to a deductible effective September 1, 2023, ongoing (Exhibit A, pp. 25-30).
4. On September 18, 2023, Petitioner's AHR submitted a request for hearing disputing the Department's actions.

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.

In this case, Petitioner was an ongoing MA recipient under the EC MA program under the Waiver Program. In June 2023, Petitioner's AHR requested to disenroll Petitioner from the Waiver Program. As a result, the Department changed Petitioner's MA program eligibility from EC to a program with a deductible.

This waiver program provides home and community-based services for aged and disabled persons who, if they did not receive such services, would require care in a nursing home. BEM 106 (October 2022), p. 1. The EC MA category is available to waiver participants that qualify. BEM 106, p. 4. If a waiver participant no longer qualifies for waiver services, may still qualify for MA. BEM 106, p. 4. EC is an SSI-related Group 1 MA category. BEM 164 (April 2017), p. 1. EC is available only to long term care and/or hospital (L/H) and waiver clients who are aged (65 or older), blind or disabled. BEM 164, p. 1. Ad-Care is an SSI-related full-coverage MA program. BEM 163 (July 2017), p. 1. The income limit for AD-Care for a one-person MA group is \$1,235. RFT 242 (April 2022), p. 1.

The Department testified that because Petitioner was disenrolled from the Waiver Program, she was no longer eligible to receive MA under the full-coverage EC MA category. The Department also presented documentation that Petitioner was not eligible under the full-coverage Ad-care MA program. Per the State Online Query, Petitioner's monthly Retirement, Survivors and Disability Income (RSDI) benefit amount was \$ [REDACTED] (Exhibit A, p. 22), which exceeds the income limit for that program. As a result, Petitioner was approved for MA benefits under the Group 2 SSI-related (G2S) MA program subject to deductible.

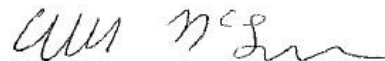
At the hearing, Petitioner's AHR conceded that she requested to have Petitioner disenrolled from the Waiver Program. Petitioner's AHR stated that she believed that by doing so, Petitioner would receive more hours of in-home care. Petitioner's AHR stated that she did not understand that disenrollment from the Waiver Program would result in Petitioner's ineligibility for a full-coverage MA program, resulting in a change in covered services, mainly the in-home help. Petitioner's AHR stated that Petitioner's in-home health aide continued to work and did not receive compensation through Medicaid because of the change in Petitioner's eligibility. As a result, Petitioner's AHR now has to compensate the in-home health aide. Petitioner's AHR stated that had she'd known Petitioner's MA coverage changed, she would not have continued services. Petitioner's AHR disputed receiving the August 2, 2023 Health Care Coverage Determination Notice.

The Department conceded that the August 2, 2023 notice was not sent to Petitioner's AHR, only Petitioner. It was unclear whether Petitioner was properly designated as Petitioner's AR at the time the notice was sent. The Department did properly issue notice to Petitioner. Petitioner's AHR is the individual that requested disenrollment from the Waiver Program. Therefore, the Department acted in accordance with policy when it disenrolled Petitioner from the Waiver Program. As Petitioner was not eligible for full-coverage MA, the Department acted in accordance with policy when it approved Petitioner for MA benefits under the G2S program subject to a monthly deductible. Therefore, the Department properly determined Petitioner's MA eligibility.

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 acted in accordance with Department policy when it determined Petitioner's MA eligibility. Accordingly, the Department's decision is **AFFIRMED**.

EM/tm



Ellen McLemore
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

Denise Key-McCoggle
Wayne-Greydale-DHHS
27260 Plymouth Rd
Redford, MI 48239

**MDHHS-Wayne-15-Greydale-
Hearings@michigan.gov**

Interested Parties

M. Schaefer
EQADHearings
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Via-First Class Mail :

Authorized Hearing Rep.

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Petitioner

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