



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], MI [REDACTED]

Date Mailed: January 5, 2024
MOAHR Docket No.: 23-007644
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

On October 30, 2023, Petitioner, [REDACTED] requested a hearing to dispute a Medical Assistance (MA) determination. As a result, a hearing was scheduled to be held on January 4, 2024, pursuant to MCL 400.9; 42 CFR 431.200 to 431.250; and Mich Admin Code, R 792.11002. Petitioner's mother and guardian, [REDACTED] appeared for Petitioner. Respondent, Department of Health and Human Services (Department), had Crystal Tjapkes, Eligibility Specialist, and Sara Hoek, Family Independence Manager, appear as its representative. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 16-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 disabled.
2. Petitioner received Social Security SSI, and Petitioner received SSI-MA from the Department.
3. On July 1, 2022, Petitioner's Social Security SSI ended.

4. On January 1, 2023, Petitioner began receiving Social Security RSDI. Petitioner received a monthly benefit of [REDACTED]
5. On August 9, 2023, the Department mailed a notice of MA-Terminated SSI. The notice informed Petitioner that the Department received notice that Petitioner's SSI ended, and the Department was providing Petitioner MA through the MA-Terminated SSI program. The notice instructed Petitioner to apply for MA, and the Department would determine whether Petitioner was eligible for MA through any other programs.
6. On October 20, 2023, the Department mailed a health care coverage determination notice to Petitioner to notify Petitioner that he was no longer eligible for MA effective November 1, 2023. The Department advised Petitioner that the Department did not receive a completed redetermination form from Petitioner, so the Department was unable to determine whether Petitioner was eligible for MA.
7. Subsequently, Petitioner applied for MA, and the Department determined that the best MA that Petitioner was eligible for was MA with a monthly deductible. The Department determined that Petitioner's monthly deductible was \$870.00. The Department found Petitioner eligible for MA with a monthly deductible effective November 1, 2023.
8. The Department is in the process of determining Petitioner's eligibility for full coverage MA through the Disabled Adult Children (DAC) program.
9. 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's MA switched from full coverage MA-Terminated SSI to MA with a monthly deductible after Petitioner's SSI ended. Petitioner is disputing Petitioner's MA coverage.

Petitioner's SSI ended on July 1, 2022. SSI recipients receive full coverage SSI-MA for the duration of SSI eligibility. BEM 150 (January 1, 2024), p. 5. When SSI ends, the Department evaluates the reason based on the Social Security Administration's code, and the Department switches the MA from SSI-MA to MA-Terminated SSI while the Department reviews the client's eligibility for MA through other programs. *Id.* at p. 6. The Department must review the client's eligibility for MA through other programs by completing a redetermination before closing the client's MA-Terminated SSI. *Id.* Since Petitioner's SSI ended, the Department properly switched Petitioner's MA to MA-Terminated SSI. The Department also properly initiated the redetermination process to determine Petitioner's eligibility for MA through other programs.

Initially, Petitioner did not return the form necessary for the Department to complete a redetermination to review Petitioner's eligibility for MA through other programs, so the Department closed Petitioner's MA-Terminated SSI for failing to return the redetermination form. The Department should have proceeded with a review to determine Petitioner's eligibility for MA through other programs before closing Petitioner's MA-Terminated SSI because a review is required to be completed before closing MA-Terminated SSI, unless the reason for the closure was total ineligibility for MA (such as moved out of state or death). BAM 210 (January 1, 2024), p. 4. However, the Department's error was harmless because Petitioner applied, and the Department determined Petitioner's eligibility effective the date of the MA-Terminated SSI closure.

The Department determined that the best MA program that Petitioner was eligible for was Group 2 MA for the Aged, Blind, or Disabled. A disabled individual is qualified for MA through either AD Care or Group 2 MA for the Aged, Blind, and Disabled. The Department found that Petitioner was not eligible for full coverage MA through AD Care, but the Department found Petitioner was eligible for MA with a monthly deductible through the Group 2 MA for the Aged, Blid, and Disabled.

Full coverage MA is available through the AD Care program for eligible clients. 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 at p. 8. In this case, Petitioner's group size is one because Petitioner does not have a spouse. The FPL for a household size of one in 2023 was \$14,580.00. 88 FR 3424 (January 19, 2023).

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 the monthly income amount. 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 countable net income was [REDACTED] per month, which equals [REDACTED] per year. Petitioner's countable net income exceeds the income limit of \$14,580.00 for the AD Care program, so the Department properly found that Petitioner was not eligible for full coverage MA through the AD Care program.

Since the Department found Petitioner ineligible for health care coverage without a deductible under AD Care, the Department determined that the best available coverage for Petitioner was Group 2 MA. Group 2 MA for Aged, Blind, and Disabled clients is known as G2S-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 his 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. Petitioner's group size is the same as used to determine eligibility for AD Care without a deductible, and it is used to determine the protected income limit set by policy.

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 Kent County was \$391.00 per month. RFT 200 (April 1, 2017) and RFT 240 (December 1, 2013). There was no evidence that Petitioner paid any health insurance premiums or allowable remedial care expenses. Thus, Petitioner's excess income was [REDACTED] minus \$391.00, which equals [REDACTED] per month. The Department properly determined Petitioner's monthly deductible amount.

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

The Department testified that it is in the process of determining Petitioner's eligibility for MA through the Disabled Adult Children (DAC) program. MA through the DAC program is full coverage MA, and it would be more beneficial to Petitioner than the MA with a monthly deductible that Petitioner is currently receiving. MA through the DAC program is available to clients who are receiving disabled adult children's RSDI benefits under Section 202(d) of the Social Security Act if the client: (1) is age 18 or older; (2) received

SSI; (3) ceased to be eligible for SSI because the client became entitled to DAC RSDI benefits or an increase in such RSDI benefits; (4) is currently receiving DAC RSDI; and (5) would be eligible for SSI without such RSDI benefits. BEM 158 (October 1, 2014), p. 1. A client may be receiving DAC RSDI if the client's Social Security claim number suffix contains the letter C, which may be followed by another letter or number. *Id.* at p. 3. There was not enough information presented at the hearing to determine whether Petitioner is receiving DAC RSDI. Thus, I am unable to determine whether Petitioner should be eligible for DAC RSDI. The Department is currently in the process of determining Petitioner's eligibility for DAC RSDI.

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

Kimberly Kornoelje
Kent County DHHS
121 Martin Luther King Jr St SE
Grand Rapids, MI 49507

MDHHS-Kent-Hearings@michigan.gov

Interested Parties

BSC3
M Schaefer
EQAD
MOAHR

Via First Class Mail:

Petitioner

[REDACTED]
[REDACTED]
MI