



GRETCHEN WHITMER
GOVERNOR

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

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ACTING DIRECTOR

[REDACTED], MI [REDACTED]

Date Mailed: February 12, 2024
MOAHR Docket No.: 23-007659
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Linda Jordan

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 on January 18, 2024, via teleconference. Petitioner appeared and represented himself. Princess Agundipe appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department). At the hearing, MDHHS offered documents into evidence, which were admitted and marked as MDHHS Exhibit A, pp. 1-23 and MDHHS Exhibit B, pp., 1-23.

ISSUE

Did MDHHS properly determine Petitioner's eligibility for Medicaid (MA)?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On September 11, 2023, MDHHS sent Petitioner an SSI-Terminated Medicaid Coverage notice in Case Number [REDACTED] (Exhibit B, p. 13). The notice indicated that MDHHS received information from the Social Security Administration (SSA) that Petitioner was no longer receiving Supplemental Security Income (SSI) and that Petitioner was now receiving SSI-Terminated MA coverage (Exhibit B, p. 13). The notice indicated that Petitioner must complete the enclosed forms and return them to MDHHS in order for MDHHS to determine continued eligibility for MA (Exhibit B, p. 13).
2. On [REDACTED] 2023, Petitioner submitted an application for MA (Exhibit A, p. 14).

3. On October 11, 2023, Petitioner submitted a Health Care Coverage Supplemental Questionnaire to MDHHS (Exhibit B, p. 6).
4. On October 17, 2023, MDHHS sent Petitioner a Health Care Coverage Determination Notice in Case Number [REDACTED] indicating that Petitioner was not eligible for MA or MSP coverage, effective November 1, 2023 ongoing (Exhibit B, p. 4).
5. On October 17, 2023, MDHHS sent Petitioner a Health Care Coverage Determination Notice in Case Number [REDACTED] indicating that Petitioner was not eligible for MA or MSP coverage, effective October 1, 2023 ongoing (Exhibit A, p. 4). The reason given for the MA denial was that Petitioner failed to return the supplemental questionnaire (Exhibit A, p. 4).
6. On October 30, 2023, Petitioner filed a Request for Hearing regarding his MA coverage (Exhibit B, p. 3).
7. On November 7, 2023, MDHHS sent Petitioner a Verification Checklist (VCL) requesting proof of his checking account information to determine eligibility for MA and MSP (Exhibit A, p. 20). The VCL indicated that the proofs were due by November 17, 2023 (Exhibit A, p. 20).
8. On November 18, 2023, MDHHS sent Petitioner notice that he was approved for MA coverage with a \$1,140.00 deductible, effective November 1, 2023 ongoing. MDHHS also approved Petitioner for Medicare Savings Program (MSP) coverage. Petitioner's SSI-related MA ended November 1, 2023.

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).

Medicaid 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 is also known as Medical Assistance. BEM 105 (January 2021), p. 1.

The Medicare Savings Program (MSP) is a state program administered by MDHHS in which the state pays an eligible client's Medicare premiums, coinsurances, and deductibles, with coverage depending on the MSP category that the client is income-eligible for. BEM 165 (October 2022), pp 1-2; BAM 810 (January 2020), p. 1. All

eligibility factors for the program must be met in the calendar month being tested. BEM 165, p. 2. There are three MSP categories: (1) QMB (Qualified Medicare Beneficiary), which pays for a client's Medicare premiums (both Part A, if any, and Part B), Medicare coinsurances and Medicare deductibles; (2) Specified Low-Income Medicare Beneficiaries (SLMB), which pays for a client's Medicare Part B premiums; and (3) Additional Low Income Medicare Beneficiaries (ALMB), which pays for a client's Medicare Part B premiums when funding is available. BEM 165, pp. 1-2.

Supplemental Security Income (SSI) is a cash benefit for needy individuals who are aged (at least 65), blind or disabled. BEM 150 (July 2021), p. 1. The Social Security Administration (SSA) determines SSI eligibility. *Id.* Individuals who are SSI recipients are automatically eligible for MA if they are a Michigan resident and if they cooperate with third-party resource liability requirements. *Id.* MDHHS administers MA for SSI recipients including a continued MA eligibility determination when SSI benefits end. *Id.* When SSI benefits stop, MDHHS is required to evaluate the reason for the termination based on SSA's negative action code. *Id.*, p. 6. If the SSI benefits are stopped due to a reason that prevents MA eligibility (for example, death or a move out of state), MDHHS is required to close the SSI-related MA coverage. *Id.* If SSI benefits are closed for any other reason, MDHHS transfers the case to MA-Terminated SSI MA and sets a redetermination date for the second month after the transfer to allow for an ex parte review. *Id.* A redetermination/ex parte review is required before initiating a MA closure when there is an actual or anticipated change. *Id.* This include a consideration eligibility under all MA categories. *Id.*

When a case is transferred to MA-Terminated SSI MA, the specialist should mail a redetermination/ex parte packet to the client. BEM 150, p. 6. The redetermination/ex parte packet should include the DCH-1426, Application for Health Coverage & Help Paying Cost, and the DHS-3503, Verification Checklist. *Id.* MDHHS must complete the redetermination/ex parte review during the second month of the MA-Terminated SSI Medicaid. *Id.*, p. 7. A determination of eligibility for another MA program or total ineligibility for any program must be completed before MA-Terminated SSI MA can close. *Id.* If continued MA eligibility does not exist, MDHHS follows the standard negative action procedures in the second month of MA-Terminated SSI MA.

In this case, MDHHS received information that Petitioner's SSI benefits ended and it enrolled Petitioner in SSI-Terminated MA coverage in Case No. ending in 691 (Exhibit B, p. 13). MDHHS instructed Petitioner to return an application for health care coverage and the supplemental questionnaire by October 10, 2023 (Exhibit A, p. 13). MDHHS opened a new case to determine Petitioner's ongoing MA coverage, Case No. ending in [REDACTED]. The record shows that Petitioner returned the requested forms, however, MDHHS made a mistake and did not register the forms into the correct case, which caused a delay in processing Petitioner's MA eligibility. Additionally, MDHHS sent Petitioner the October 17, 2023 Health Care Determination Notice in Case. No. [REDACTED] in error (Exhibit A, p. 17). That notice indicated that he was not eligible for MA or MSP due to not returning the supplemental questionnaire.

After Petitioner requested a hearing on the matter, MDHHS took steps to correct its error. MDHHS testified at the hearing that Petitioner's SSI-Terminated MA ended, effective November 1, 2023, and he was approved for MA in the Group 2 Aged, Blind, Disabled (G2S) category with a \$1,140.00 deductible, effective November 1, 2023 ongoing. MDHHS also testified that he was approved for MSP in the ALMB category. According to MDHHS' testimony, Petitioner was transitioned to a different MA category with no lapse in coverage and Petitioner was approved for MSP. Given that MDHHS took steps to correct its initial mistake, this decision addresses whether MDHHS properly determined Petitioner's eligibility for G2S MA.

MA includes several sub-programs or categories. BEM 105, p. 1. 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.* MA eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, MICHild, Flint Water Group and Health Michigan Plan (HMP) is based on Modified Adjusted Gross Income (MAGI) methodology. *Id.* The terms Group 1 and Group 2 relate to financial eligibility factors. *Id.* For Group 1, net income (countable income minus allowable income deductions) must be at or below a certain income limit for eligibility to exist. *Id.* The income limit, which varies by category, is for nonmedical needs such as food and shelter. *Id.* Medical expenses are not used when determining eligibility for MAGI-related and SSI-related Group 1 categories. *Id.* For Group 2, eligibility is possible even when net income exceeds the income limit. *Id.* This is because incurred medical expenses are used when determining eligibility for Group 2 categories. *Id.* Group 2 categories are considered a limited benefit because a deductible is possible. *Id.*

G2S MA is an SSI-related MA category available to a person who is aged (65 or older), blind, or disabled. BEM 166 (April 2017), p. 1. Income eligibility exists when net income does not exceed the Group 2 needs in BEM 544. *Id.* If net income exceeds the Group 2 needs, MA eligibility is still possible with a deductible. *Id.*

To evaluate Petitioner's eligibility for MA, MDHHS must determine Petitioner's MA fiscal group size, net income and assets. MDHHS determines fiscal and asset groups separately for each person requesting MA. BEM 211 (July 2019), p. 5. In this case, MDHHS based Petitioner's income calculation on the receipt of \$1,568.00 in Retirement, Survivors, Disability Insurance (RSDI) income (Exhibit A, p. 14). MDHHS determined that Petitioner had a household of one. Petitioner did not dispute these determinations. Petitioner was entitled to a \$20.00 disregard, which would bring his net earned income to \$1,548.00. BEM 541 (January 2023), p. 3. There was no evidence of other SSI-related MA income deductions.

Based on Petitioner's circumstances, he was potentially eligible for Ad-Care MA. The Ad-Care program is a group 1, full-coverage SSI-related MA program for disabled individuals who are income-eligible based on their MA fiscal group size. BEM 163 (July 2017), p. 1. However, net income for this program cannot exceed 100% of the Federal Poverty Level (FPL). *Id.* To be income eligible for this program, Petitioner's income

would have had to be \$1,235.00 or less for a fiscal group-size of one. RFT 242 (April 2023), p. 1. Petitioner's income exceeded this amount and therefore, he was not eligible for Ad-Care MA.

MDHHS alleged that Petitioner was eligible for G2S MA, which is an SSI-related Group 2 MA category. BEM 166, p. 1. MDHHS considers eligibility under this category only when eligibility does not exist under BEM 155 through 164, 170 or 171. *Id.* Income eligibility exists for G2S MA when net income does not exceed the Group 2 needs in BEM 544. *Id.*, p. 2. If the net income exceeds Group 2 needs, MA eligibility is still possible with a deductible, per BEM 545. *Id.* The deductible is equal to the amount the individual's net income, calculated in accordance with the applicable Group 2 MA policy, minus the applicable Group 2 MA protected income level (PIL). The PIL is a set allowance for non-medical need items such as shelter, food and incidental expenses that is based on the county in which the client resides and the client's fiscal MA group size. BEM 544 (January 2020), p. 1. The PIL for Oakland County, where Petitioner resides, for a one-person MA group, is \$408.00. RFT 200 (April 2017), p. 2; RFT 240 (December 2013), p. 1.

In determining the monthly deductible, net income is reduced by health insurance premiums paid by the MA group and remedial service allowances for individuals in adult foster care or homes for the aged. BEM 544, pp. 1-3. In this case, no evidence was presented that Petitioner resided in an adult foster care home or home for the aged. Therefore, he was not eligible for any deductions for remedial service allowances. MDHHS testified that Petitioner's Medicare Part B premium was paid through his Medicare Savings Program (MSP) coverage, and therefore, he was not entitled to a deduction for health insurance premiums. Accordingly, Petitioner's countable income was \$1,548.00. Subtracting the PIL of \$408.00 equals \$1,140.00. Therefore, MDHHS properly determined that Petitioner was eligible for G2S MA with a monthly deductible of \$1,140.00.

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 eligibility for MA.

DECISION AND ORDER

Accordingly, MDHHS' decision is **AFFIRMED**.



LJ/nr

Linda Jordan
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 :

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