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GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
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Date Mailed: January 25, 2024
MOAHR Docket No.: 23-007740
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 January 24, 2024. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Danai Ajami, Lead Eligibility Specialist.

ISSUE

Did the Department properly determine Petitioner's Medical Assistance (MA) Program 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. Under the Families First Coronavirus Response Act (FFCRA), PL 116-127, Michigan received additional federal MA funding during the COVID-19 pandemic health emergency (PHE).
2. As a condition for receiving the increased funding, § 6008 of the FFCRA required that MDHHS provide continuous MA coverage for individuals who were enrolled in MA on or after March 18, 2020, even if those individuals became ineligible for MA for reasons other than death, residing outside of Michigan, or requesting that MA be discontinued.

3. The MA continuous coverage requirement under § 6008 of the FFCRA was not indefinite.
4. The Consolidated Appropriations Act, 2023 (CAA, 2023), PL 117-328, terminated the continuous coverage requirement effective March 31, 2023.
5. Beginning April 1, 2023, the CAA, 2023 required MDHHS to reevaluate almost all MA recipients' eligibility for ongoing MA.
6. Petitioner was previously enrolled in the Group 2-Aged, Blind, Disabled (G2S) and Additional Low-Income Medicare Beneficiaries (ALMB) Medicare Savings Program (MSP) MA categories.
7. On August 4, 2023, the Department issued a Redetermination to Petitioner with a due date of September 5, 2023.
8. On October 20, 2023, the Department issued a Health Care Coverage Determination Notice (HCCDN) to Petitioner advising her that her MA benefits were closing effective November 1, 2023 for failure to return the completed Redetermination.
9. On October 26, 2023, the Department received the completed Redetermination on which Petitioner listed her total checking and savings account assets as [REDACTED] and Retirement Survivors Disability Insurance (RSDI) income of [REDACTED] per month.
10. On October 31, 2023, the Department received Petitioner's request for hearing disputing the denial of benefits for failure to return the completed Redetermination.
11. On November 7, 2023, the Department issued a second HCCDN to Petitioner advising her that effective November 1, 2023, Petitioner was eligible for Plan First (PF) MA coverage but was no longer eligible for the Medicare Savings Program (MSP) effective November 1, 2023 because her countable assets were higher than the amount allowed for the program.
12. At the hearing, the parties agreed that the original basis of Petitioner's hearing request had been resolved and that they wanted to include the November 7, 2023 HCCDN as part of the review at the hearing and in this hearing decision.

APPLICABLE LAWS

Authority for the ALJ to conduct the hearing is provided under MCL 400.9 and 400.37; 42 USC 1396(3); 42 CFR 431.200 to 431.250.

MDHHS policies are contained in the Michigan Department of Health and Human Services Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

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*.

CONCLUSIONS OF LAW

Starting April 1, 2023, ongoing MA eligibility must be renewed. For MA beneficiaries whose MA eligibility is based on their Modified Adjusted Gross Income (MAGI)-based income, MA must be renewed once every 12 months and no more frequently than once every 12 months. 42 CFR 435.916(a)(1). For MA beneficiaries whose MA eligibility is not based on their MAGI-based income, MA eligibility must be redetermined at least every 12 months. 42 CFR 435.916(b). Any renewal form or notice must be accessible to persons who are limited English proficient and persons with disabilities. 42 CFR 435.916(f)(2).

In conducting this renewal or redetermination, MDHHS must check available information and data sources to attempt to redetermine eligibility before contacting the beneficiaries. 42 CFR 435.916(a)(2) and (b), 435.948, and 435.949. Before concluding that an individual is ineligible for MA, MDHHS must evaluate the individual's eligibility for MA on all bases for MA coverage, including the Medicare Savings Programs. 42 CFR 435.916(f)(1).

MA Coverage

Upon reviewing Petitioner's eligibility criteria at redetermination, MDHHS concluded that Petitioner was eligible for MA coverage under the PF program. Petitioner disputes this coverage.

MA is available (i) under SSI-related categories to individuals who are aged (65 or older), blind or disabled, (ii) to individuals who are under age 19, parents or caretakers of children, or pregnant or recently pregnant women, (iii) to individuals who meet the eligibility criteria for Healthy Michigan Plan (HMP) coverage, and (iv) to individuals who meet the eligibility criteria for Plan First Medicaid (PF-MA) coverage. 42 CFR 435.911; 42 CFR 435.100 to 435.172; BEM 105 (October 2023), p. 1; BEM 137 (June 2020), p. 1; BEM 124 (July 2023), p. 1. Under federal law, an individual eligible under more than one MA category must have eligibility determined for the category selected and is entitled to the most beneficial coverage available, which is the one that results in eligibility and the least amount of excess income or the lowest cost share. BEM 105 (January 2021), p. 2; 42 CFR 435.404.

In this case, Petitioner disputes the Department's decision with respect to her MA eligibility as determined by the November 7, 2023 HCCDN. Asset eligibility is required for all SSI-related MA categories including G2S and all MSP categories. BEM 400 (July 2023), p. 6. Modified Adjusted Gross Income (MAGI) MA categories do not have an asset

test. *Id.* Asset eligibility exists when the asset group's countable assets are less than, or equal to, the applicable asset limit at least one day during the month being tested. BEM 400, p. 7. For MSP with a group size of one, the asset limit effective January 2, 2023 was \$9,090.00. BEM 400, p. 8. For all other SSI-related MA categories, including G2S and excluding QDWI, the asset limit was \$2,000.00 for a group size of one effective July 1, 2023. *Id.* The Department is not required to verify assets when countable assets exceed the applicable asset limit based on a person's own statement of value. BEM 400, p. 61.

In this case, Petitioner wrote on her Redetermination that she had a combined total of assets in her checking and savings account of [REDACTED]. Because Petitioner's own statement of the value of her assets exceed the asset limits for G2S and MSP, the Department was not required to verify the asset and properly determined that she was ineligible.

Because Petitioner was no longer eligible for G2S, the Department determined that Petitioner was eligible for PF, a limited coverage MA program which provides coverage for family planning services. Petitioner is age [REDACTED], had excess asset for SSI-related MA categories, not under age 19, not the parent or caretaker of a minor child, nor pregnant or recently pregnant. Therefore, Petitioner was potentially eligible for MA coverage only under PF.

In this case, MDHHS concluded that Petitioner was eligible for PF due to having assets exceeding the asset limit for SSI-related MA categories and being over the age of [REDACTED]. PF-MA is a MAGI-related limited coverage Medicaid group available to any United States citizen or individual with an immigration status entitling them to full Medicaid coverage (not emergency services only (ESO)) residing in Michigan whose fiscal group's net income does not exceed 195% of the federal poverty level (FPL) and meets the other eligibility criteria. BEM 124 (July 2023), p. 1. There are no age or gender restrictions to PF-MA eligibility. BEM 124, p. 1.

Like HMP, determination of an individual's PF-MA eligibility requires consideration of the fiscal group's size and income. BEM 124, pp. 1-2. An individual's group size for MAGI purposes requires consideration of the client's tax filing status. Petitioner has a group size of one because she is not married and has no dependents. BEM 211, pp. 1-2. 195% of the annual FPL in 2023 (the most current applicable FPL) for a household with one member is \$28,431.00. See <https://aspe.hhs.gov/poverty-guidelines>. Therefore, to be income eligible for PF-MA, Petitioner's annual income cannot exceed \$28,431 or \$2,369.25 per month.

To determine financial eligibility under PF, income must be calculated in accordance with MAGI under federal tax law. 42 CFR 435.603(e); BEM 500 (April 2022), p. 3. MAGI is based on Internal Revenue Service rules and relies on federal tax information. *Id.* To determine income in accordance with MAGI, a client's adjusted gross income (AGI) is added to any tax-exempt foreign income, tax-exempt Social Security benefits, and tax-exempt interest. AGI is found on IRS Tax Form 1040 at line 11. See <https://www.healthcare.gov/glossary/adjusted-gross-income-agi>. Alternatively, it is

calculated by taking the “federal taxable wages” for each income earner in the household as shown on the paystub or, if not shown on the paystub, by using gross income before taxes reduced by any money the employer takes out for health coverage, childcare, or retirement savings. See <https://www.healthcare.gov/income-and-household-information/how-to-report/>. MDHHS considers *current* monthly income and family size (except for individuals who report seasonal work and complete a projected annual income field on the MA application to show work for only a portion of the year with reasonably predictable changes in income within the upcoming 12 months). Michigan Medicaid State Plan Amendment Transmittal 17-0100, effective November 1, 2017 and approved by the Center for Medicare and Medicaid Services on March 13, 2018 available at https://www.michigan.gov/mdhhs/-/media/Project/Websites/mdhhs/Folder3/Folder80/Folder2/Folder180/Folder1/Folder280/SPA_17-0100_Approved.pdf.

Petitioner had verified income of [REDACTED] per month. Petitioner does not have any deductions for health coverage, childcare, or retirement savings. Because Petitioner’s income falls below the income limit threshold for PF, she is eligible for MA under the PF category.

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 closed Petitioner’s MA benefits under the G2S and MSP categories and provided MA under the PF category.

DECISION AND ORDER

Accordingly, MDHHS’s MA decision is **AFFIRMED**.

AMTM/cc



Amanda M. T. Marler
Administrative Law Judge

PETITIONER'S APPEAL RIGHTS: You may ask the Michigan Office of Administrative Hearings and Rules (MOAHR) for a rehearing or reconsideration of this Hearing Decision. Your written request should include your name, the docket number from page 1 of this Hearing Decision, an explanation of the specific reasons you are making the request, and any documents supporting your request. Send your request to MOAHR

- by email to MOAHR-BSD-Support@michigan.gov, **OR**
- by fax at (517) 763-0155, **OR**
- by mail addressed to
Michigan Office of Administrative Hearings and Rules
Rehearing/Reconsideration Request
P.O. Box 30639
Lansing Michigan 48909-8139

Your request must be **received** by MOAHR within 30 days of the Mailing Date of this Hearing Decision, or it will be untimely. Untimely requests will be dismissed.

You may also appeal this Hearing Decision to the circuit court. MOAHR does not provide legal assistance for appeals to the circuit court.

Via-Electronic Mail :

Interested Parties

MDHHS-Wayne-55-Hearings
BSC4-HearingDecisions
EQADHearings
M. Schaefer
MOAHR

Via-First Class Mail :

Petitioner

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