



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]
[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: February 23, 2024
MOAHR Docket No.: 23-007792
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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 February 21, 2024, from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Avery Smith, Assistance Payments Manager.

ISSUE

Did the Department properly process Petitioner's Medical Assistance (MA) benefits?

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 previously a recipient of MA benefits under the Healthy Michigan Plan (HMP) category.
2. 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).
3. As a condition for receiving the increased funding, § 6008 of the FFCRA required that the Department 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.

4. The MA continuous coverage requirement under § 6008 of the FFCRA was not indefinite.
5. The Consolidated Appropriations Act, 2023 (CAA, 2023), PL 117-328, terminated the continuous coverage requirement effective March 31, 2023.
6. Beginning April 1, 2023, the CAA, 2023 required the Department to reevaluate almost all MA recipients' eligibility for ongoing MA.
7. In connection with a redetermination, Petitioner's eligibility for MA benefits was reviewed.
8. Petitioner confirmed that her household size is one, that she is enrolled in Medicare, and that she receives Retirement Survivors Disability Insurance (RSDI) or Social Security benefits in the gross monthly amount of [REDACTED]
9. The Department determined that Petitioner was no longer eligible for MA benefits under the HMP, as she was enrolled in the Medicare program.
10. The Department determined that effective October 1, 2023, Petitioner was eligible for MA under the under the Group 2 Aged, Blind, Disabled (G2S) category with a monthly deductible of \$1,226.
11. On or around November 7, 2023, Petitioner requested a hearing disputing the Department's actions with respect to her MA benefits.

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.

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, p. 2; 42 CFR 435.404.

HMP is a MAGI-related MA category that provides MA coverage to individuals who (i) are 19 to 64 years of age; (ii) have income under the MAGI methodology at or below 133% of the federal poverty level (FPL); (iii) do not qualify for or are not enrolled in Medicare; (iv) do not qualify for or are not enrolled in other MA programs; (v) are not pregnant at the time of application; and (vi) are residents of the State of Michigan. BEM 137, p. 1; 42 CFR 435.603.

In this case, Petitioner disputed the Department's determination that she was eligible for MA under a deductible based program. It was established that Petitioner had previously been approved for and receiving MA under the full coverage HMP. However, following the end of the public health emergency, the Department was required to review her ongoing MA eligibility. The Department properly concluded that Petitioner was no longer eligible for MA coverage under the HMP category because she was enrolled in Medicare. Petitioner is eligible for SSI-related MA, which is MA for individuals who are blind, disabled or over age 65. BEM 105, p. 1. Individuals are eligible for Group 1 coverage, with no deductible, if their income falls below the income limit, and eligible for Group 2 coverage, with a deductible that must be satisfied before MA is activated, when their income exceeds the income limit. BEM 105, p. 1. Ad-Care coverage is a SSI-related Group 1 MA category which must be considered before determining Group 2 MA eligibility. BEM 163 (July 2017), p. 1. Eligibility for Ad-Care is based on the client meeting nonfinancial and financial eligibility criteria. BEM 163, pp. 1-2. The eligibility requirements for Group 2 MA and Group 1 MA Ad-Care are the same, other than income. BEM 166 (April 2017), pp. 1-2.

Income eligibility for the Ad-Care program is dependent on MA fiscal group size and net income which cannot exceed the income limit in RFT 242. BEM 163, p. 2. Petitioner has a MA fiscal group of one. BEM 211 (October 2023), pp. 5-8. Effective April 1, 2023, an MA fiscal group with one member is income-eligible for full-coverage MA under the Ad-Care program if the group's net income is at or below \$1,235, which is 100 percent of the Federal Poverty Level, plus the \$20 disregard. RFT 242 (April 2023), p. 1.

The Department is to determine countable income according to SSI-related MA policies in BEM 500 and 530 *except* as explained in the countable RSDI section of BEM 163. The Department will also apply the deductions in BEM 540 (for children) or 541 (for adults) to countable income to determine net income. BEM 163, p. 2. The Department presented an SSI Related Medicaid Income Budget to show how it determined

Petitioner had excess income for the Ad-Care program. The budget shows that the Department considered unearned income of [REDACTED] which Petitioner confirmed was correct based on her receipt of gross monthly RSDI or Social Security benefits. The Department also properly considered the unearned income general exclusion of \$20 and determined that Petitioner had countable income of [REDACTED] (Exhibit A, p. 21)

After further review of Department policy and based on the testimony provided at the hearing, because Petitioner's countable income exceeds the net income limit for the Ad-Care program, the Department acted in accordance with Department policy when it determined that Petitioner was ineligible for full coverage MA benefits under the Ad-Care program without a deductible and determined that she would be eligible for MA under the Group 2 Aged Blind Disabled (G2S) program with a monthly deductible.

Additionally, deductible is a process which allows a client with excess income to become eligible for Group 2 MA if sufficient allowable medical expenses are incurred. BEM 545 (July 2022), p. 10. Individuals are eligible for Group 2 MA coverage when net income (countable income minus allowable income deductions) does not exceed the applicable Group 2 MA protected income levels (PIL), which is based on shelter area and fiscal group size. BEM 105, pp. 1-2; BEM 166, pp. 1-2; BEM 544 (January 2020), p. 1; RFT 240 (December 2013), p. 1. The PIL is a set allowance for non-medical need items such as shelter, food and incidental expenses. BEM 544, p. 1. The monthly PIL for an MA group of one living in [REDACTED] County is \$408 per month. RFT 200 (April 2017), pp. 1-2; RFT 240, p. 1. Thus, if Petitioner's net monthly income is in excess of the \$408, she may become eligible for assistance under the deductible program, with the deductible being equal to the amount that her monthly income exceeds \$408. BEM 545, p. 1. To meet a deductible, a MA client must report and verify allowable medical expenses (defined in Exhibit I) that equal or exceed the deductible amount for the calendar month being tested. The group must report expenses by the last day of the third month following the month in which client wants MA coverage. BEM 545, p. 11. The Department is to add periods of MA coverage each time the group meets its deductible. BEM 545, p.11

The Department produced an SSI-Related Medicaid Income Budget to show how it calculated the deductible. As referenced above, the Department properly considered gross unearned income in the amount of [REDACTED]. The Department also properly applied a \$20 unearned income exclusion to determine that Petitioner had net unearned income for MA purposes of [REDACTED]. Petitioner confirmed that she is not responsible for any monthly insurance premiums, as the evidence suggested she was enrolled in the Medicare Savings Program in which her Medicare premiums are paid by the State of Michigan. The Department testified that while Petitioner had submitted some expenses, they were not considered ongoing monthly expenses to be applied as an ongoing deduction to the budget.

Upon review, the Department properly considered Petitioner's unearned income and took into consideration the appropriate deductions to income. Based on the evidence presented because Petitioner's countable income of [REDACTED] for MA purposes exceeds

the monthly protected income level of \$408 by \$1,226, the Department properly calculated Petitioner's monthly \$1,226 MA deductible in accordance with Department policy. Therefore, based on the information relied upon by the Department, the Department properly determined that Petitioner was eligible for MA under the G2S program with a monthly deductible of \$1,226.

With respect to the medical expenses submitted to show that Petitioner incurred expenses that were sufficient to meet or exceed Petitioner's deductible, the Department representative testified that on December 5, 2023, Petitioner submitted a one-time expense in the amount of \$1,283 which reflected caretaker expenses for the month of December 2023. The Department representative testified that the bill was processed and approved, and Petitioner's MA was activated for only the month of December 2023. However, the Department testified that although Petitioner submitted expenses to show that her deductible was met for December 2023, because it was considered a one-time expense, it was not applied as an ongoing medical expense deduction to the deductible budget.

At the hearing, Petitioner disputed the Department's testimony that she only submitted her caretaker expenses for the month of December 2023. Petitioner testified that each month since October 2023, she has been submitting verification of her monthly caretaker expenses in the amount of \$1,283 to show that she has met her monthly deductible. She testified that on the forms submitted, she specifies the number of caretaker hours and amount paid. It was unclear whether Petitioner was asserting that the expenses she submitted were not processed, however, as she later testified that in January 2024, her caretaker was paid for services for the months of October 2023, November 2023, and December 2023. It was further unclear whether Petitioner's caretaker was paid by Petitioner or through a home help program administered by the Department. The Department was unable to verify or otherwise confirm through the electronic case file reviewed whether it had in fact received, reviewed, and processed any additional medical expenses that Petitioner testified she submitted.

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 although the Department properly determined that Petitioner was eligible for MA under the G2S with a monthly deductible, the Department failed so establish that it properly processed Petitioner's medical expenses and applied them to her deductible for the applicable months.


DECISION AND ORDER

Accordingly, the Department's decision is **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Process Petitioner's medical expenses incurred and apply them towards her MA deductible for the applicable months;
2. Provide MA coverage to Petitioner's for the months in which her MA deductible was met, in accordance with the above and in accordance with Department policy; and
3. Notify Petitioner of its decision in writing.

ZB/ml



Zainab A. Baydoun
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

Yaita Turner

Oakland County Southfield District III

25620 W. 8 Mile Rd

Southfield, MI 48033

MDHHS-Oakland-6303-Hearings@michigan.gov

Interested Parties

BSC4

M Schaefer

EQAD

Via First Class Mail:

Petitioner

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]