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
DIRECTOR

[redacted]
MI [redacted]

Date Mailed: March 7, 2024
MOAHR Docket No.: 23-009813
Agency No.: 123345348
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 29, 2024, from Detroit, Michigan. Petitioner appeared for the hearing and represented himself. The Department of Health and Human Services (Department) was represented by Juana Spencer, Assistance Payments Worker and Geyanna Goods, Assistance Payments Supervisor.

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 an ongoing recipient of MA benefits under the Group 2 Aged, Blind, Disabled (G2S) category subject to a monthly deductible. Petitioner was also a recipient of Medicare Savings Program (MSP) benefits.

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. The Department asserted that since October 2022, Petitioner's deductible had been met and he was approved for full coverage MA benefits. The Department asserted that because of the public health emergency, Petitioner's full coverage MA benefits continued through December 2023. The Department presented an eligibility summary and MA EDG Summary in support of its testimony. (Exhibit C)

8. In connection with a redetermination, Petitioner's eligibility for MA benefits was reviewed.

9. On or around November 17, 2023, the Department sent Petitioner a Health Care Coverage Determination Notice (Notice) informing him that his monthly deductible will be increasing to $1,196 effective December 1, 2023, and that his MSP case would be closed due to a failure to submit verification of a bank account. (Exhibit A, pp. 9-15)

10. On or around December 27, 2023, Petitioner submitted a hearing request disputing the Department's actions with respect to the MA and MSP cases. (Exhibit A, p.3)

    a. Specifically, Petitioner indicated that his MA coverage changed for no reason, that his deductible went up for no reason, that he does not have a Christmas bank account, and that his MSP benefits were turned off even though he submitted bank account information.

11. Although the Notice informed Petitioner that his MSP case would be closed effective December 1, 2023, because of a failure to verify requested information, at the hearing, the Department asserted, and Petitioner confirmed that his MSP case was reinstated and there was no lapse in his coverage. Petitioner confirmed that Medicare premiums are not being withheld from his monthly Social Security benefits. Therefore, the issue with respect to the MSP case closure has been resolved and will not be addressed below.

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 requested a hearing disputing the Department's actions with respect to his MA case. Petitioner asserted that the type of his MA coverage has changed, and his deductible has increased. At the hearing, the Department presented evidence that since 2019, Petitioner has been approved for MA under the G2S category subject to a monthly deductible. There was no evidence that the type of MA program Petitioner was approved for has changed; however, the Department established that because of the public health emergency, and because Petitioner had previously met his deductible, his full coverage MA was approved on a continuous basis through December 2023. Petitioner did not present any evidence that he had any outstanding medical expenses or that he was denied MA services through the month of December 2023. The Department representative testified that in connection with a redetermination following the end of the public health emergency, Petitioner's MA eligibility was reviewed and effective January 1, 2024, he was now again required to submit medical expenses showing that he met his MA deductible each month. Additionally, although the Notice issued to Petitioner identified different deductible amounts, the Department presented an eligibility summary showing that Petitioner's MA deductible was $941 through December 2023 and that effective January 1, 2024, his MA deductible would be increased to $1,146. Petitioner's MA eligibility will be addressed below.

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.

The Department properly concluded that Petitioner was not eligible for MA coverage under the Healthy Michigan Plan as he was enrolled in Medicare. Because there was no evidence that Petitioner was the parent or caretaker of any minor children, the Department properly concluded that Petitioner is eligible for SSI-related MA, which is MA for individuals who are blind, disabled or over age 65. BEM 137, p. 1; 42 CFR 435.603; 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 eligiblity 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 considered unearned income of [redacted] which Petitioner confirmed was correct based on his receipt of gross monthly RSDI or Social Security benefits.

After further review of Department policy and based on the testimony provided at the hearing, it was established that 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 he would continue to only 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 $375 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 [redacted] he may become eligible for assistance under the deductible program, with the deductible being equal to the amount that his monthly income exceeds [redacted] 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] The budget shows a $22 deduction for insurance premiums. Additionally, a $50 COLA exclusion was considered as a deduction. The Department testified that it had not received any verification of ongoing monthly medical 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 $375 by $1,146, the Department properly calculated Petitioner's monthly $1,146 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 $1,146.

At the hearing, Petitioner raised additional concerns about his chore provider not being paid. Petitioner's testimony was inconsistent as to the months at issue, as he initially indicated the chore provider did not receive payment from the Department for services provided for the months of January 2024 and February 2024, but later in the hearing asserted that the chore provider hadn't been paid since December 2023. It is noted that this issue was not identified in Petitioner's request for hearing. The Department representative testified that she was not Petitioner's assigned case worker for his chore provider case and had limited information to present at the hearing. Therefore, Petitioner was advised any dispute concerning chore provider payment needed to be addressed with the adult medical district within the Department, as Petitioner confirmed he received some type of eligibility notice regarding his chore provider case.

The Department representative testified that because Petitioner's MA case is again subject to a monthly deductible, Petitioner is required to submit verification showing that he incurred medical expenses that were sufficient to meet or exceed his deductible each month. The Department representative reviewed Petitioner's electronic case file and found no record of any such expenses submitted. Although Petitioner asserted that his chore provider submitted invoices directly to the Department each month, the

testimony was unclear as to whether these invoices were submitted as expenses incurred by Petitioner to show that his monthly deductible was met or whether they were submitted to the adult medical district in connection with the chore provider adult home help case. Petitioner also did not specify when the expenses were submitted to the Department or the amount of the expenses. Upon review, Petitioner did not establish a negative action with respect to medical expenses not being properly processed. As indicated above, should Petitioner dispute the actions of the Department with respect to the termination of his chore provider adult home help case or his chore provider not receiving payment for a time period in which he was approved for full coverage MA, he is to submit a hearing request with the adult medical services district.

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 processed Petitioner's MA benefits.

DECISION AND ORDER

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

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
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Interested Parties
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Via First Class Mail:

Petitioner
[redacted], MI [redacted]