



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]
MI [REDACTED]

Date Mailed: February 14, 2024
MOAHR Docket No.: 24-000041
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Caralyce M. Lassner

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 by telephone on February 5, 2024. Petitioner appeared and represented herself. Petitioner was assisted by her daughter, [REDACTED]. The Department of Health and Human Services (Department) was represented by Valarie Foley, Hearing Facilitator.

ISSUE

Did the Department properly determine Petitioner's Medicaid (MA) coverage effective July 1, 2023 ongoing?

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 an ongoing recipient of Retirement, Survivors, and Disability Insurance (RSDI) benefits from the Social Security Administration (SSA).
2. Petitioner is a Medicare recipient (Exhibit A, pp. 12, 26).
3. On August 4, 2023, the Department sent a redetermination application to Petitioner regarding her MA coverage. The redetermination application was due to the Department on September 5, 2023. (Exhibit A, pp. 15 – 23).

4. On August 5, 2023, Petitioner completed her redetermination application online through MiBridges. (Exhibit A, pp. 24 – 27).
5. On August 9, 2023, the Department issued a Health Care Coverage Determination Notice (HCN) stating Petitioner was approved, for July 1, 2023 ongoing, for Plan First (PFFP), a limited coverage policy, that her total countable annual income amount was [REDACTED] and her healthcare household size was one (1). No other information regarding the basis for the Department's determination appears on the HCN. (Exhibit 1, pp. 5 – 7).
6. On September 12, 2023, Petitioner returned a hard copy of her completed redetermination application to the Department. (Exhibit A, pp. 8 – 14).
7. On September 25, 2023, the Department issued an HCN stating Petitioner was approved, for November 1, 2023 ongoing, for PFFP and for G2S coverage with a monthly deductible of \$1,271.00. This HCN also stated that her total countable annual income amount was [REDACTED] and her health care household size was -0-. (Exhibit 1, pp. 8 – 11, 15).
8. On December 19, 2023, the Department issued an HCN stating Petitioner was:
 - a) approved, for October 1, 2023 through October 31, 2023, for Medicare Savings Program – QMB;
 - b) was not eligible for Medicare Savings Program for December 1, 2023 through December 31, 2023 due to excess income; and
 - c) was not eligible for Medicare Savings Program for November 1, 2023 ongoing because she is not under 21, pregnant, or a caretaker of a minor child and is not over 65 (aged), blind, or disabled.(Exhibit 1, p. 16).
9. On November 25, 2023, and again on January 4, 2024, Petitioner requested a hearing to dispute the change in her MA coverage from Ad-Care (G2) coverage from September 1, 2023 ongoing. (Exhibit A, pp. 3 – 4).
10. On November 25, 2023, and again on January 4, 2024, Petitioner requested a hearing regarding her FAP benefits. (Exhibit A, pp. 6 – 7).
11. Petitioner's request for hearing regarding her FAP benefits was resolved prior to hearing. (Exhibit A, p. 1, 29 – 32; Exhibit 1, p. 3, dated January 4, 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).

On November 25, 2023, and again on January 4, 2024, Petitioner requested a hearing regarding her FAP and MA benefits. (Exhibit A, pp. 6 – 7). Petitioner's request for hearing regarding her FAP benefits was resolved prior to hearing with the issuance of supplemental benefits. (Exhibit A, p. 1, 29 – 32; Exhibit 1, pp. 3, 29 – 32).

Petitioner confirmed resolution of her dispute regarding FAP during the hearing. Therefore, Petitioner's request for hearing regarding her FAP benefits is dismissed.

The only remaining issue to be decided is whether the Department properly determined Petitioner's MA coverage.

Medicaid

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.

Petitioner requested a hearing to dispute the loss of Ad-Care coverage. As part of a redetermination, Petitioner received notices from the Department notifying her that she was approved for PFFP effective July 1, 2023 (Exhibit 1, p. 5) and PFFP and MA, subject to a \$1,271.00 monthly deductible, effective November 1, 2023 (Exhibit 1, p. 8). Notwithstanding the HCN effective July 1, 2023, at the hearing, the Department explained that Petitioner had been an ongoing recipient of MA under a deductible program. However, because of COVID, her deductible had been satisfied and her MA coverage remained active until the redetermination was processed determining her ongoing MA eligibility.

Determining whether the Department properly determined each member's MA eligibility requires consideration of all MA categories. "Persons may qualify under more than one MA category. Federal law gives them the right to the most beneficial category. The most beneficial category is the one that results in eligibility, the least amount of excess income or the lowest cost share." BEM 105 (October 2023), p. 2. All MA category options must be considered in order for the Petitioner's right of choice to be meaningful. BEM 105, p. 2.

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, and (iii) to individuals who meet the eligibility criteria for Healthy Michigan Plan (HMP) coverage. 42 CFR 435.911; 42 CFR 435.100 to 435.172; BEM 105, p. 1; BEM 137 (June 2020), p. 1; BEM 124 (July 2023), p. 1.

Because Petitioner receives RSDI based on a disability or her age, she is a Medicare recipient and because she is not the caretaker of a minor child, Petitioner is eligible for MA under only SSI-related categories.

Based on Petitioner's circumstances, she 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). BEM 163, p. 1. To be income eligible for this program, Petitioner's income would have had to be \$ [REDACTED] or less for a fiscal group-size of one. RFT 242 (April 2023), p. 1. Petitioner was receiving [REDACTED] monthly in RSDI income in September 2023. Petitioner's income exceeded this amount and therefore, the Department properly determined that she was not eligible for Ad-Care MA.

The Department determined that, in addition to PFFP, Petitioner was eligible for G2S MA, which is an SSI-related Group 2 MA category. BEM 166 (April 2017), p. 1. Clients who are ineligible for full-coverage MA coverage because of excess income may still be eligible for SSI-related MA under a Group 2 SSI (G2S) program, which provides for MA coverage with a monthly deductible. BEM 105, p. 1. G2S is available to a person who is aged (65 or older), blind, or disabled. BEM 166, p. 1.

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 nonmedical 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 Wayne County, where Petitioner resides, for her one-person MA group, is \$375.00. RFT 200 (April 2017), p. 2; RFT 240 (December 2013), p. 1.

The Department presented a G2S budget showing its calculation of the deductible. In calculating Petitioner's deductible, the Department started with an unearned income amount of [REDACTED] despite testifying that Petitioner's unearned income is [REDACTED]. Petitioner's monthly RSDI income, minus \$20.00 excluded under policy, resulted in a net income of [REDACTED]. The net income minus \$375.00 PIL, equals a deductible of \$1,270.00. (Exhibit A, p. 28). When gross income is corrected to [REDACTED] the deductible becomes \$1,271.00, which is the amount showing on the HCN and is consistent with the Department's conclusion.

However, in the hearing request and at the hearing, Petitioner expressed concerns that she had submitted medical expenses to the Department that her worker refused to process because its system showed that she had PFFP coverage and was not allocating the expenses to her G2S coverage. Because Petitioner is entitled to the most favorable coverage she is eligible to receive, and the G2S would potentially cover expenses not covered by PFFP, the Department did not act in accordance with Department policy when it refused to process her medical expenses.

Petitioner's request for hearing also concerns her MSP coverage. The HCN on December 18, 2023, was issued for three (3) different time periods, two (2) of which overlap, and three (3) different and conflicting determinations finding that she was eligible for MSP for October 2023 and ineligible for November and December 2023. (Exhibit 1, p. 16).

The Medicare Savings Program (MSP) is an SSI-related MA category and is not limited to Group 1 or Group 2 MA. BEM 165 (October 2022), p. 1. The State will pay for a client's Part B Medicare premium and possibly other Medicare copays and deductibles if a client is eligible for MSP. There are three (3) categories of MSP: Qualified Medicare Beneficiaries (QMB), Specified Low-Income Medicare Beneficiaries (SLMB), and Q1 Additional Low-Income Medicare Beneficiaries (ALMB). BEM 165, p. 1. Each of these categories has different income limitations and benefits. BEM 165, pp. 1 – 2.

In this case, the Department did not offer any evidence regarding how Petitioner was determined to be eligible or ineligible for MSP during the months set forth in the December HCN beyond testifying that the Department corrected Petitioner's records to reflect her actual and current gross RSDI income. That explanation does not resolve the variances in eligibility between October 1, 2023, November 1, 2023, and December 1, 2023. Notwithstanding the conflicts in the December HCN, a client in a single-person MA group is not income eligible for any MSP coverage if their gross monthly income exceeds [REDACTED] RFT 242 (April 2023), p. 1. Because Petitioner's income exceeds this limit, she is not eligible for any MPS coverage.

Therefore, as to Petitioner's MA coverage only, 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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it failed to process her medical expenses under the most beneficial MA program available to her.

DECISION AND ORDER

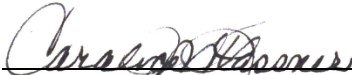
Accordingly, the Petitioner's request for hearing regarding her FAP benefits is **DISMISSED**; and

The Department's decision is **REVERSED** with respect to Petitioner's MA coverage.

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. Redetermine Petitioner's eligibility for MA from July 1, 2023 ongoing;
2. For each month she was eligible, provide Petitioner with the most beneficial MA coverage for that respective month;
3. Process any medical expenses Petitioner submitted for expenses incurred July 1, 2023 ongoing; and
4. Notify Petitioner in writing of its decision.

CML/ml



Caralyce M. Lassner
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
Susan Noel
Wayne-Inkster-DHHS
26355 Michigan Ave
Inkster, MI 48141
MDHHS-Wayne-19-Hearings@michigan.gov

Interested Parties
BSC4
M Schaefer
EQAD

Via First Class Mail:

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