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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: April 23, 2024  
MOAHR Docket No.: 24-001338  
Agency No.: ██████████  
Petitioner: ██████ ██████

**ADMINISTRATIVE LAW JUDGE: Colleen Lack**

**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 April 27, 2024, from Lansing, Michigan. ██████ ██████ the Petitioner, appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Tamara Griffiths, Lead Worker (LW).

During the hearing proceeding, the Department’s Hearing Summary packet was admitted as Exhibit A, pp. 1-27.

**ISSUE**

Did the Department properly determine Petitioner’s eligibility for Medical Assistance (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 January ██████ 2024, there was a reported change in Petitioner’s income from Retirement Survivors and Disability Insurance (RSDI) benefits. (Exhibit A, p. 1)
2. The Department verified Petitioner’s RSDI income. (Exhibit A, pp. 12-14)
3. The Department determined that Petitioner exceeded the income limit for full coverage MA under the Aged Disabled (AD CARE) category and would have a monthly deductible for her MA benefits. (Exhibit A, pp. 1 and 15-16)

4. On January █ 2024, a Health Care Coverage Determination Notice was issued to Petitioner stating she would have a monthly deductible of \$█ for her MA coverage as of February 1, 2024. Petitioner was also approved for limited coverage under the Plan First category and the Medicare Savings Program (MSP) under the Specified Low-Income Medicare Beneficiaries (SLMB) category. (Exhibit A, pp. 17-22)
5. On January 29, 2024, Petitioner filed a hearing request contesting the Department's determination. (Exhibit A, pp. 3-11)

### **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.

The Medicaid program comprise several sub-programs or categories. BEM 105, January 1, 2024, p. 1.

Plan First 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 residing in Michigan. The fiscal group's net income cannot exceed 195 percent of the federal poverty level. BEM 124, July 1, 2023, p. 1.

To receive MA under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. Medicaid eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, MICHild, Flint Water Group and Healthy Michigan Plan is based on Modified Adjusted Gross Income (MAGI) methodology. BEM 105, January 1, 2024, p. 1.

In general, the terms Group 1 and Group 2 relate to financial eligibility factors. For Group 1, net income (countable income minus allowable income deductions) must be at or below a certain income limit for eligibility to exist. The income limit, which varies by category, is for nonmedical needs such as food and shelter. Medical expenses are not used when determining eligibility for MAGI-related and SSI-related Group 1 categories. For Group 2,

eligibility is possible even when net income exceeds the income limit. This is because incurred medical expenses are used when determining eligibility for Group 2 categories. Group 2 categories are considered a limited benefit as a deductible is possible. BEM 105, January 1, 2024, p. 1.

Medicaid eligibility is determined on a calendar month basis. Unless policy specifies otherwise, circumstances that existed, or are expected to exist, during the calendar month being tested are used to determine eligibility for that month. When determining eligibility for a future month, assume circumstances as of the processing date will continue unchanged unless you have information that indicates otherwise. BEM 105, January 1, 2024, p. 2. This is consistent with 42 CFR § 435.603(h), which states that financial eligibility for Medicaid for applicants must be based on current monthly household income and family size.

MA AD CARE is an SSI-related group 1 MA category. This category is available to persons who are aged or disabled (AD). Net income cannot exceed 100% of the poverty level. BEM 163, July 1, 2017, p. 1.

The Department counts the gross benefit amount of SSA issued RSDI benefits as unearned income when determining eligibility. BEM 503, January 1, 2023, p. 29. The Department disregards the annual cost of living increase for RSDI for January, February, and March. BEM 503, January 1, 2023, p. 30.

The Department utilizes a Protected Income Level (PIL) in determining MA eligibility. The PIL is a set allowance for non-medical need items such as shelter, food and incidental expenses. BEM 544, January 1, 2020, p. 1. Hillsdale County is part of Shelter Area III, which has a PIL of \$350.00 for a group size of one. RFT 200, April 1, 2017, p. 3 and RFT 240, December 1, 2013, p. 1.

For SSI related adults, the only deductions allowed to countable income are for court-ordered child support, blind/impairment related work expenses, allocation to non-SSI related children, a \$20.00 disregard, an earned income disregard of \$65.00 plus ½ of the remaining earnings, and Guardianship/Conservator expenses. BEM 541, January 1, 2024, pp. 1-7.

Income eligibility exists for all or part of the month tested when there is no excess income or the medical group's allowable medical expenses equal or exceed the fiscal group's excess income. BEM 545, July 1, 2022, p. 1-3.

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. Each calendar month is a separate deductible period. The fiscal group's monthly excess income is called a deductible amount. Meeting a deductible means reporting and verifying allowable medical expenses that equal or exceed the deductible amount for the calendar month tested. BEM 545, July 1, 2022, p. 10-12.

RFT 242 addresses the income limit for aged or disabled MA (MA-AD). Effective April 1, 2023, for a group size of one the income limit for MA-AD is \$1,235.00. RFT 242, April 1, 2023, p. 1.

In this case, the Department verified the change in Petitioner's RSDI income effective December █ 2023. (Exhibit A, pp. 12-14). The Department determined that Petitioner exceeded the income limit for full coverage MA under the AD CARE category and would have a monthly deductible for her MA benefits. (Exhibit A, pp. 1 and 15-16). On January █ 2024, a Health Care Coverage Determination Notice was issued to Petitioner stating she would have a monthly deductible of \$█ for her MA coverage as of February 1, 2024. Petitioner was also approved for limited coverage under the Plan First category and the MSP under the SLMB category. (Exhibit A, pp. 17-22). At the time of redetermination, Petitioner's income from SSA issued RSDI benefits was \$█ monthly. (Exhibit A, p 12-14). After the \$20.00 disregard and PIL of \$350.00 are considered, Petitioner has a monthly deductible of \$█ There was no evidence that Petitioner had medical insurance premiums or any of the other allowable deductions (court-ordered child support, blind/impairment related work expenses, allocation to non-SSI related children, an earned income disregard of \$65.00 plus ½ of the remaining earnings, or Guardianship/Conservator expenses). The Department also excluded \$40.00 for the annual cost of living increase for RSDI because the Department was reviewing eligibility effective in the month of February. (Exhibit A, p. 16).

Petitioner testified that she will not be able to make ends meet with the \$█ deductible. The deductible process is confusing and causes undue stress. Medicare only covers 80%. Petitioner has a chronic debilitating condition, Chron's disease. For example, Medicare only covers 80% of durable medical equipment. Specifically, Petitioner's ostomy supplies cost \$█ and after Medicare pays their portion, Petitioner is still responsible for \$█ Petitioner qualifies for other assistance programs, such as the MSP and food benefits. The MA deductible process is very overwhelming for Petitioner and seems very unfair. (Petitioner Testimony).

This Administrative Law Judge has no authority to change or make any exceptions to the applicable regulations and policy, which require a monthly deductible when there is excess income. Overall, the evidence establishes that the Department properly determined Petitioner's eligibility for MA based upon the available information.

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 determined Petitioner's eligibility for MA.

**DECISION AND ORDER**

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

CL/dm

  
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**Colleen Lack**  
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

