



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

MARLON I. BROWN
DIRECTOR

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Date Mailed: May 10, 2024
MOAHR Docket No.: 24-001839
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 10, 2021, from Lansing, Michigan. ██████ ██████ the Petitioner, appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Jennifer Richard, Supervisor.

During the hearing proceeding, the Department’s Hearing Summary packet was admitted as Exhibit A, pp. 1-26.

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 February █ 2024, Petitioner submitted a Renew Benefits and provided updated income information. (Exhibit A, pp. 7-11)
2. On February █ 2024 a Verification Checklist was issued to Petitioner requesting verification of checking and savings accounts with a due date of February 16, 2024. (Exhibit A, pp. 12-13)
3. On February █ 2024, Petitioner submitted bank statements. (Exhibit A, pp. 14-17)

4. On February █ 2024, a Health Care Coverage Determination Notice was issued to Petitioner approving MA with a monthly deductible of \$█ effective March 1, 2024. (Exhibit A, pp. 19-25)
5. On February 20, 2024, Petitioner filed a hearing request contesting the Department's determination. (Exhibit A, pp. 4-6)

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. Kent County is part of Shelter Area V, which has a PIL of \$391.00 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 Petitioner's RSDI income. (Exhibit A, p. 18). 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 19). On February █ 2024, a Health Care Coverage Determination Notice was issued to Petitioner approving MA with a monthly deductible of \$█ effective March 1, 2024. (Exhibit A, pp. 19-25). At the time of redetermination, Petitioner's income from SSA issued RSDI benefits was \$█ monthly. (Exhibit A, p. 18). After the \$20.00 disregard and PIL of \$█ are considered, Petitioner had a monthly deductible of \$█ There was no evidence that Petitioner had 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 \$60.00 for the annual cost of living increase for RSDI because the Department was reviewing eligibility effective in the month of March. (Exhibit A, p. 19).

Petitioner explained that she requested that hearing because the Health Care Coverage Determination Notice indicated a household size of zero and no income. (Petitioner Testimony). Unfortunately, this was due to templated language on the Notice that does not apply to Petitioner's MA eligibility determination. (Supervisor Testimony)

Petitioner testified that she pays medical insurance premiums, which include Medicare Part B and a hospitalization, cancer, and heart attack program. (Petitioner Testimony). No medical insurance premium expense was included in the MA deductible calculation. (Exhibit A, p. 19). The Supervisor reviewed Petitioner's case and confirmed that Petitioner was paying her own Medicare Part B premium. As of the April 2024 deductible budget, an insurance premium of \$█ was included for that month and ongoing. It appears that the Department is still waiting for the verification of the hospitalization, cancer, and heart attack insurance and may have included older medical bills in the budget. (Supervisor Testimony).

Overall, the evidence indicates that the Department did not properly budgeted medical insurance premiums in the MA deductible budget that resulted in the February 8, 2024, Health Care Coverage Determination Notice. No medical insurance premium expense was included despite Petitioner having this type of expense.

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 did not act in accordance with Department policy when it determined Petitioner's eligibility for MA.

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. Re-determine Petitioner's eligibility for MA as of the March 1, 2024 effective date in accordance with Department policy.

CL/dm



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

Via-Electronic Mail :

DHHS
Kimberly Kornoelje
Kent County DHHS
MDHHS-Kent-
Hearings@michigan.gov

SchaeferM

EQADHearings

BSC3HearingDecisions

MOAHR

Via-First Class Mail :

Petitioner

[REDACTED]
[REDACTED]
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