



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: May 15, 2024
MOAHR Docket No.: 24-002666
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: L. Alisyn Crawford

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 18, 2024. Petitioner was represented by [REDACTED] his authorized hearing representative (AHR). Petitioner was not present at the hearing. The Department of Health and Human Services (Department) was represented by Danielle Moton, Assistance Payments Worker.

ISSUE

Did the Department properly determine Petitioner's Medical Assistance (MA) eligibility?

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 receiving MA based on his receipt of Supplemental Security Income (SSI) benefits. (Exhibit A, p. 1).
2. On December 11, 2023, the Department sent Petitioner a notice indicating that he was receiving SSI-Terminated MA Coverage because it received information from the Social Security Administration (SSA) that his SSI benefits ended. (Exhibit A, p. 8). The notice informed him that if his SSI benefits were terminated, the Department was required to close his SSI-related MA coverage and determine ongoing MA eligibility in another category. The notice advised him to submit forms to the Department by January 10, 2024 to determine his ongoing eligibility for MA.
3. Once his SSI ended, Petitioner began receiving Retirement, Survivors, and Disability Insurance (RSDI) benefits in the amount of [REDACTED] per month and was a Medicare recipient. (Exhibit A, pp. 28, 34).

4. On January 9, 2024, Petitioner submitted the Assistance Application (MDHHS-1171) form and Health Care Coverage Supplemental Questionnaire (MDHHS-1004) to the Department. (Exhibit A, pp. 16-33).
5. On February 29, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice (HCCDN), indicating that Petitioner was eligible for Plan First Family Planning (PFFP), a limited MA coverage category effective March 1, 2024 ongoing. (Exhibit A, p. 12).
6. On March 4, 2024, Petitioner submitted a request for hearing disputing the Department's determination. (Exhibit A, pp. 3-5).

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 to dispute the Department's determination regarding MA coverage. The Department terminated Petitioner's SSI-related MA coverage because it received information that his SSI benefits ended. Initially, the Department indicated that Petitioner was only eligible for PFFP coverage; however, following the request for hearing, the Department reviewed Petitioner's eligibility. In a HCCDN dated March 25, 2024, discussed on the record, the Department explained that Petitioner was eligible for MA coverage under Group 2 Aged, Blind and Disabled (G2S) with a monthly deductible of \$1,058.00, effective April 1, 2024. (Exhibit A, p. 37).

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 (January 2024), p. 1; BEM 137 (January 2024), 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 (January 2021), p. 2; 42 CFR 435.404.

Because Petitioner was disabled and a Medicare recipient and there was no evidence that Petitioner was the parent or caretaker of a minor child, Petitioner was eligible for MA only under an SSI-related category. In determining the SSI-related MA category Petitioner is eligible for, The Department must determine Petitioner's MA fiscal group size and net income. As an unmarried individual, Petitioner has a fiscal group size for SSI-related MA purposes of one. BEM 211 (October 2023), p. 8. The household's net income for MA purposes is [REDACTED] (Petitioner's gross income from RSDI of [REDACTED] reduced by a \$20 disregard). BEM 541 (January 2024), p. 3.

Based on this net income, Petitioner has excess income for eligibility under the AD-Care program, the full-coverage SSI-related MA program. BEM 163 (July 2017), p. 2; RFT 242 (April 2023), p. 1; <https://aspe.hhs.gov/poverty-guidelines>. However, 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-related MA (G2S) program, which provides for MA coverage with a monthly deductible. BEM 105, p. 1. The deductible is the amount that a client's net income (less any allowable needs deductions) exceeds the applicable Group 2 MA protected income levels (PIL). The PIL is a set amount identified in policy based on the client's MA fiscal group size and county of residence. BEM 105, p. 1; BEM 166 (April 2017), pp. 1-2; BEM 544 (January 2020), p. 1; RFT 240 (December 2013), p. 1; RFT 200 (April 2017), p. 2. The monthly PIL for a client in Petitioner's position, with an MA fiscal group size of one living in [REDACTED] County, is \$375 per month. RFT 200, p. 2; RFT 240, p. 1. Thus, Petitioner is eligible for MA assistance under the deductible program, with the deductible equal to the amount of the monthly net income, less allowable deductions, reduced by \$375 per month. BEM 545 (July 2022), pp. 2-3.

The Department presented an SSI-related MA budget showing the calculation of Petitioner's deductible (Exhibit A, p. 37) that was reviewed on the record. In determining the monthly deductible, net income is reduced by health insurance premiums paid by the MA group and remedial service allowances for individuals in adult foster care or homes for the aged. BEM 544, pp. 1-3. In this case, Petitioner does not reside in an adult foster care home or home for the aged and, as such, is not eligible for any remedial service allowances. He does not pay health insurance premiums. (Exhibit A, p. 34.) Therefore, Petitioner's allowable needs deduction for health insurance and remedial services totaled \$0. Petitioner's net income of [REDACTED] reduced by \$0 allowable needs deductions and by the \$375 PIL results in a deductible of \$1,058. Thus, the Department properly determined Petitioner's eligibility for SSI-related MA with a monthly deductible.

Disabled Adult Children (MA DAC) is also an SSI-related Group 1 MA category. At the hearing, the AHR inquired whether the Department considered MA DAC coverage for Petitioner. The Department indicated that it had not reviewed Petitioner's eligibility for DAC coverage, but advised the AHR that Petitioner can request a "DAC review" from the Department. MA DAC is available to a person receiving disabled adult children's

(DAC) (also called Childhood Disability Beneficiaries' or CDBs') RSDI benefits under section 202(d) of the Social Security Act if they:

1. Is age 18 or older; and
2. Received Supplemental Security Income (SSI); and
3. Ceased to be eligible for SSI on or after July 1, 1987, because he became entitled to DAC RSDI benefits under section 202(d) of the Act or an increase in such RSDI benefits; and
4. Is currently receiving DAC RSDI benefits under section 202(d) of the Act; and
Note: To receive DAC RSDI a person must have a disability or blindness that began before age 22.
5. Would be eligible for SSI without such RSDI benefits.

BEM 158 (October 2014), p. 1.

When assessing MA eligibility, the Department should consider an individual's eligibility for DAC MA before G2S eligibility. BEM 105, p. 5. Because the Department did not consider Petitioner's eligibility for DAC MA, it failed to establish that it provided Petitioner with the most beneficial MA coverage.

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 coverage under a G2S program with a monthly deductible.

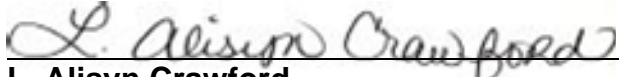
DECISION AND ORDER

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

MDHHS 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. Assess Petitioner's eligibility for DAC MA coverage, effective March 1, 2024 ongoing;
2. If eligible, provide Petitioner with the most beneficial MA coverage he is eligible for March 1, 2024 ongoing; and
3. Notify Petitioner and the AHR of its decision in writing.

LC/ml


L. Alisyn Crawford
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

Tara Roland 82-17
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Interested Parties

BSC4
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Authorized Hearing Representative

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Via First Class Mail:

Petitioner

[REDACTED]
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[REDACTED] MI [REDACTED]