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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 16, 2024
MOAHR Docket No.: 24-003106
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 April 25, 2024. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by Shyla Coleman, Eligibility Specialist and Hearings Facilitator.

ISSUE

Did the Department properly determine Petitioner's eligibility for Medicaid (MA) coverage effective April 1, 2024?

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 a [REDACTED] year old disabled, unmarried individual who receives Retirement, Survivors, and Disability Insurance (RSDI) income in the amount of \$1,505 per month.
2. On January 16, 2024, the Department received a completed redetermination application for MA from Petitioner. (Exhibit A, p. 1).
3. On March 8, 2024, the Department received verifications it had requested from Petitioner. (Exhibit A, p. 1).

4. On March 8, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice (MA determination), closing Petitioner's Freedom to Work (FTW) coverage effective March 31, 2024, and approving Petitioner for Group 2 Aged, Blind and Disabled (G2S) MA with a monthly deductible of \$935, effective April 1, 2024. The MA determination also approved Petitioner for Medicare Savings Program – Specified-Low Income Medicare Beneficiaries (SLMB). (Exhibit A, pp. 6 – 8).
5. On March 19, 2024, the Department received Petitioner's request for hearing to dispute the MA coverage he was approved for. (Exhibit A, p. 3).

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.

Petitioner disputed the Department's determination as to his MA coverage.

Determining whether the Department properly determined each member's MA eligibility requires consideration of all MA categories. Under federal law, an individual is entitled to the most beneficial category, which is the one that results in a) eligibility, b) the least amount of excess income, or c) the lowest cost share. BEM 105 (January 2024), 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 (January 2024), p. 1; BEM 124 (July 2023), p. 1. Because Petitioner receives RSDI based on a disability or his age, is a Medicare recipient; and is not the caretaker of a minor child, Petitioner is eligible for MA under only SSI-related categories.

FTW is an SSI-related category limited to individuals with disabilities who are age 16 through 64 and who have earned income. BEM 174 (January 2020), p. 1. Though Petitioner is still disabled, because he is [REDACTED] years of age, he is no longer eligible for FTW. The Department properly closed Petitioner's MA coverage under FTW.

Based on Petitioner's circumstances, he 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) for the fiscal group size. BEM 163, p. 1. For SSI-related MA purposes, unmarried individuals are a fiscal group size of one. BEM 211 (October 2023), p. 8. Because Petitioner is single, to be income eligible for this program, Petitioner's monthly income would have had to be \$1,275 or less for a fiscal group-size of one. RFT 242 (April 2024).

In this case, Petitioner receives RSDI in the amount of \$1,505 per month, which Petitioner confirmed during the hearing. (Exhibit A, p. 12). The gross amount of RSDI is counted as unearned income but, for purposes of SSI-related MA, is reduced by \$20 to determine the net unearned income. BEM 503 (April 2024), pp. 30 – 31; BEM 541 (January 2024), p. 3; see also BEM 163. Petitioner's RSDI reduced by \$20, equals \$1,485. Because \$1,485 is more than the limit for Ad-Care MA, Petitioner was not eligible for Ad-Care MA.

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

The deductible for G2S MA is equal to (i) the amount the individual's net income, calculated in accordance with the applicable Group 2 MA policy, (ii) minus specific expenses set forth in BEM 544, and (iii) minus the applicable Group 2 MA protected income level (PIL). BEM 166, p. 2; BEM 541, pp. 1, 3 – 4; BEM 544 (January 2020). 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, p. 1. The PIL for Wayne County, where Petitioner resides, for his one-person fiscal group, is \$375. RFT 200 (April 2017), p. 2; RFT 240 (December 2013), p. 1.

The Department presented a G2S budget, for the benefit period of April 1, 2024 ongoing, showing its calculation of the deductible. (Exhibit A, p. 12). In calculating Petitioner's deductible, the Department started with Petitioner's gross RSDI unearned income amount of \$1,505. Petitioner's monthly RSDI income, minus \$20 excluded under policy, resulted in a net income of \$1,485. The Department properly calculated Petitioner's net income.

The Department properly included Petitioner's \$375 PIL deduction. (Exhibit A, p. 12). Petitioner testified that he does not incur any guardianship/conservator expenses or have any ongoing medical expenses or remedial services. Therefore, Petitioner was not entitled to these specific additional deductions from his net income. The Department's budget reflects that it deducted \$174.50 from Petitioner's net income for Petitioner's payment of Medicare Part B premiums. (Exhibit A, p. 12). However, during the hearing, Petitioner confirmed that he no longer pays these premiums. Petitioner's testimony is consistent with the MA determination reflecting Petitioner was approved for SLMB effective February 1, 2024. (Exhibit A, pp. 6 – 8). SLMB pays Medicare Part B premiums. BEM 165 (October 2022), p. 2. Because the Department deducted Petitioner's Medicare Part B premiums when Petitioner is no longer paying those premiums, the deductible amount of \$935 per month is incorrect.

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 properly determine Petitioner's MA coverage as G2S; however, it did not act in accordance with Department policy when it deducted Petitioner's Medicare Part B premiums from Petitioner's net income when it calculated Petitioner's deductible for G2S MA coverage.


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. Redetermine Petitioner's G2S deductible; and
2. Notify Petitioner of its decision in writing.

CML/nr



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 :

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Interested Parties
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