



GRETCHEN WHITMER
GOVERNOR

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

MARLON BROWN
DIRECTOR

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Date Mailed: May 24, 2024
MOAHR Docket No.: 24-003565
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 24, 2024, from Lansing, Michigan. The Petitioner was represented by ██████████ ██████████ Benefits Specialist, Community Living Services, Authorized Hearing Representative (AHR). The Department of Health and Human Services (Department) was represented by Priya Johnson, Assistance Payments Supervisor (AP Supervisor).

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-10.

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 March ██████ 2024, an application for MA was filed for Petitioner. (AP Supervisor Testimony)
2. On March ██████ 2024, a Health Care Coverage Determination Notice was issued to Petitioner's AHR stating Petitioner was approved for limited coverage under the Plan First category, and Petitioner was denied for the Medicare Savings Program (MSP) due to income in excess of the program limit. (Exhibit A, pp. 7-10)

3. The Department determined that Petitioner was eligible for MA with a monthly deductible of \$ [REDACTED] (Exhibit A, p. 1; AP Supervisor Testimony)
4. On or about March 26, 2024, a hearing request was filed on Petitioner's behalf contesting the Department's determination indicating MA should have been approved as full coverage under the Disabled Adult Children (DAC) category. (Exhibit A, pp. 3-4).

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. 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. 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.

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.

The Department counts the gross benefit amount of SSA issued Retirement Survivors Disability Insurance (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. Oakland County is part of Shelter Area VI, which has a PIL of \$408.00 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 $\frac{1}{2}$ 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.

There are three categories that make up the MSP: Qualified Medicare Beneficiaries (QMB); Specified Low-Income Medicare Beneficiaries (SLMB); and Additional Low-Income Medicare Beneficiaries (ALMB). Income is the major determiner of category. For QMB net income cannot exceed 100% of poverty. For SLMB net income is over 100% of poverty, but not over 120% of poverty. For ALMB net income is over 120% of poverty, but not over 135% of poverty. BEM 165, October 1, 2022, p. 1.

RFT 242 addresses the income limits for aged or disabled MA (MA-AD) and the MSP categories. Effective April 1, 2023, for a group size of one the income limit for MA-AD and QMB is \$1,235.00; for SLMB the income limit is \$1,235.01 to \$1,478.00; and for ALMB the income limit is \$1,478.01 to \$1,660.25. RFT 242, April 1, 2023, p. 1.

Disabled Adult Children (MA DAC) is also an SSI-related Group 1 MA category. 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 he or she:

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 1, 2014, p. 1.

In this case, the MA deductible budget was reviewed with the AP Supervisor. The Department included Petitioner's income from RSDI benefits, the \$20.00 disregard, the insurance premium for Petitioner's Medicare part B, and the PIL of \$408.00. This resulted in the deductible of \$[REDACTED] which was effective March 1, 2024. (AP Supervisor Testimony). It does not appear that Petitioner was issued written notice of the deductible determination. The March [REDACTED] 2024 Health Care Coverage Determination Notice only stated Petitioner was approved for limited coverage under the Plan First category, and was denied for the MSP due to income in excess of the program limit. (Exhibit A, pp. 7-10). Further, the AP Supervisor indicated that the Department had been awaiting verifications as they were continuing to process MA eligibility for Petitioner. The requested verifications were received on the hearing date. It appears that a technical issue in the Department's system is not allowing the MA approval with the deductible to go into effect. Further, the request for a DAC determination was submitted for Petitioner on the date of the hearing. (AP Supervisor Testimony).

Petitioner's AHR testified that when they checked for coverage, the system did not show the MA approval with the deductible. They were also seeking to have the DAC determination submitted. (AHR Testimony).

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 determined Petitioner's eligibility for MA. The MA deductible determination appears to not be going into effect due to a technical problem, and no written notice was issued of the deductible determination. Further, as of the hearing date, the Department still needed to review eligibility for Petitioner under the DAC category.

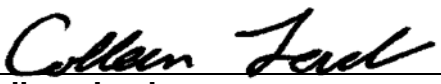
DECISION AND ORDER

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 eligibility for MA for the March ■ 2024 application 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
Yaita Turner
Oakland County Southfield District III
**MDHHS-Oakland-6303-
Hearings@michigan.gov**

SchaeferM

EQADHearings

BSC4HearingDecisions

MOAHR

Via-First Class Mail :

Authorized Hearing Rep.

[REDACTED]
[REDACTED]
[REDACTED]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]