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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

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Date Mailed: June 21, 2024
MOAHR Docket No.: 24-003767
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Linda Jordan

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 on May 23, 2024, via teleconference. Petitioner appeared and represented herself. Loren Willming, Assistance Payments Supervisor, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department). MDHHS' Hearing Packet was admitted into evidence at the hearing as MDHHS Exhibit A, pp. 1-57.

ISSUE

Did MDHHS properly determine Petitioner's eligibility for Medicaid (MA) coverage?

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 and ██████████ (Spouse) were ongoing recipient of MA coverage.
2. On ██████████ 2024, Petitioner submitted a Redetermination for MA to MDHHS (Exhibit A, p. 37).
3. On February 28, 2024, MDHHS sent Petitioner a Health Care Coverage Determination Notice indicating that she was approved for full-coverage MA, effective April 1, 2024 ongoing, and Spouse was approved for full-coverage MA, effective March 1, 2024 (Exhibit A, p. 21).

4. On [REDACTED] 2024, Petitioner submitted a Food Assistance Program (FAP) application to MDHHS, reporting pension/retirement income for Spouse (Exhibit A, pp. 51-55).
5. On March 28, 2024, MDHHS sent Petitioner a Health Care Coverage Determination Notice indicating that she was approved for MA with a \$1,444.00 deductible and Plan First MA, a limited coverage category, effective May 1, 2024 ongoing (Exhibit A, p. 13).
6. On April 8, 2024, Petitioner filed a Request for Hearing regarding her MA coverage (Exhibit A, pp. 3-7).

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).

Medicaid (MA) 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. MDHHS administers MA pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MA is also known as Medical Assistance. BEM 105 (January 2021), p. 1.

In this case, MDHHS determined that Petitioner was eligible for Plan First MA, a limited MA coverage category, and Group 2 Aged, Blind, Disabled (G2S) MA with a monthly deductible of \$1,444.00, effective May 1, 2024 ongoing. Spouse was approved for full-coverage MA, effective March 1, 2024 ongoing. Petitioner was previously receiving full-coverage MA under the Ad-Care MA category and disputed MDHHS' determination that she was eligible for MA with a deductible.

MA includes several sub-programs or categories. BEM 105, p. 1. To receive MA under a Supplemental Security Income (SSI)-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. *Id.* MA eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, MICHild, Flint Water Group and Health Michigan Plan (HMP) is based on Modified Adjusted Gross Income (MAGI) methodology. *Id.* The terms Group 1 and Group 2 relate to financial eligibility factors. *Id.* For Group 1, net income (countable income minus allowable income deductions) must be at or below a certain income limit for eligibility to exist. *Id.* The income limit, which varies by category, is for nonmedical needs such as food and shelter. *Id.* Medical expenses are not used when determining eligibility for MAGI-related and SSI-related Group 1 categories. *Id.* For Group 2, eligibility is possible even when net income exceeds the income limit. *Id.*

This is because incurred medical expenses are used when determining eligibility for Group 2 categories. *Id.* Group 2 categories are considered a limited benefit because a deductible is possible. *Id.*

G2S MA is an SSI-related MA category available to a person who is aged (65 or older), blind, or disabled. BEM 166 (April 2017), p. 1. Income eligibility exists when net income does not exceed the Group 2 needs in BEM 544. *Id.* If net income exceeds the Group 2 needs, MA eligibility is still possible with a deductible. *Id.* Plan First MA is a MAGI-related limited coverage MA category, that covers services related to family planning and reproductive health. To be eligible for Plan First, a person must meet all non-financial eligibility factors and their income cannot exceed 195% of the Federal Poverty Level (FPL). BEM 124 (July 2023), p. 1. Persons may qualify under more than one MA category. *Id.*, p. 2. Federal law gives them the right to the most beneficial category. *Id.* The most beneficial category is the one that results in eligibility, the least amount of excess income or the lowest cost share. *Id.*

To evaluate Petitioner's eligibility for MA, MDHHS must determine Petitioner's MA fiscal group size, net income and assets. MDHHS determines fiscal and asset groups separately for each person requesting MA. BEM 211 (July 2019), p. 5. In this case, MDHHS determined that Petitioner had a group-size of two, which included Spouse, and testified that it based Petitioner's household income calculation on the receipt of \$1,001.00 in Retirement, Survivors, Disability Insurance (RSDI) income and \$972.00 in pension/retirement income (Exhibit A, p. 14). Petitioner's gross household income was \$1,973.00. Petitioner did not dispute these determinations. Petitioner was entitled to the \$20.00 disregard, which would bring net income to \$1,953.00. BEM 541 (January 2024), p. 3. There was no evidence of other SSI-related MA income deductions.

Based on Petitioner's circumstances, she 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). *Id.* To be income eligible for this program, Petitioner's income would have had to be \$1,723.50 or less for a fiscal group-size of two. RFT 242 (April 2024), p. 1. Petitioner's income exceeded this amount and therefore, she was not eligible for Ad-Care MA.

MDHHS alleged that Petitioner was eligible for G2S MA, which is an SSI-related Group 2 MA category. BEM 166, p. 1. MDHHS considers eligibility under this category only when eligibility does not exist under BEM 155 through 164, 170 or 171. *Id.* Income eligibility exists for G2S MA when net income does not exceed the Group 2 needs in BEM 544. *Id.*, p. 2. If the net income exceeds Group 2 needs, MA eligibility is still possible with a deductible, per BEM 545. *Id.* The deductible is equal to the amount the individual's net income, calculated in accordance with the applicable Group 2 MA policy, minus the applicable Group 2 MA protected income level (PIL). The PIL is a set allowance for non-medical 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 (January 2020), p. 1. The PIL for ██████████ County, where Petitioner resided, for a two-person MA group, was \$516.00. RFT 200 (April 2017), p. 2; RFT 240 (December 2013), p. 1.

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, no evidence was presented that Petitioner resided in an adult foster care home or home for the aged. Therefore, she was not eligible for any deductions for remedial service allowances. MDHHS presented evidence that Petitioner's Medicare Part B premium was paid through the Medicare Savings Program (MSP), and therefore, she was not entitled to a deduction for health insurance premiums. Accordingly, Petitioner's countable income was \$1,953.00. Subtracting the PIL of \$516.00 equals \$1,437.00, which would be the deductible amount.

MDHHS determined that Petitioner was eligible for G2S MA with a monthly deductible of \$1,444.00. The reason for the slight discrepancy is not clear from the record and MDHHS did not introduce a budget to show how the deductible amount was calculated.

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 MDHHS failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner eligibility for MA coverage.

DECISION AND ORDER

Accordingly, MDHHS' 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. Redetermine Petitioner's eligibility for MA, effective May 1, 2024 ongoing;
2. Provide Petitioner the most beneficial category of MA coverage that she is eligible to receive, effective May 1, 2024 ongoing; and
3. Notify Petitioner of its decision in writing.



Linda Jordan
Administrative Law Judge

LJ/pt

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

Jennifer Weston
Van Buren County DHHS
57150 Cty. Rd. 681
Hartford, MI 49051

MDHHS-VanBuren-Hearings@michigan.gov

Interested Parties

BSC3
M. Schaefer
EQAD
MOAHR

Via-First Class Mail:

Petitioner

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