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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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DIRECTOR

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Date Mailed: July 5, 2024
MOAHR Docket No.: 24-004970
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 June 6, 2024, via teleconference. Petitioner appeared and represented herself. Maria Hernandez and Mary Hammond 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. 1-44.

ISSUE

Did MDHHS properly determine Petitioner’s household eligibility for Medicaid (MA) and Medicare Savings Program (MSP) benefits?

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 ██████████, 2023, Petitioner applied for MA on behalf of herself and ██████████ (Spouse) (Exhibit A, p. 27).
2. On January 19, 2024, MDHHS sent Petitioner a Health Care Coverage Determination Notice indicating that Petitioner and Spouse were not eligible for MA or MSP, effective February 1, 2024 ongoing (Exhibit A, p. 13).
3. On January 26, 2024, MDHHS sent Petitioner a Health Care Coverage Determination Notice indicating that Petitioner and Spouse were eligible for MSP, effective February 1, 2024 ongoing and eligible for full-coverage MA, effective February 1, 2024 ongoing (Exhibit A, p. 9).
4. On January 29, 2024, MDHHS sent Petitioner a Health Care Coverage Determination Notice indicating that she was eligible for Plan First MA, a limited

coverage category, and MA with a \$1,868.00 monthly deductible, effective March 1, 2024 ongoing (Exhibit A, p. 4). The notice also indicated that Spouse was eligible for full coverage MA for the month of January 2024 and that he was approved for Plan First MA and MA with a \$1,868.00 monthly deductible, effective March 1, 2024 ongoing (Exhibit A, p. 4).

5. On April 29, 2024, Petitioner requested a hearing regarding MDHHS' determinations (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).

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 2024), p. 1.

In this case, MDHHS determined that Petitioner and Spouse were eligible for Plan First MA, a limited MA coverage category, and Group 2 Aged, Blind, Disabled (G2S) MA with a monthly deductible of \$1,868.00, effective March 1, 2024, ongoing. At the hearing, MDHHS indicated that Petitioner and Spouse were denied for MSP benefits due to excess income, effective March 1, 2024.

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 and Spouse's eligibility for MA, MDHHS must determine the MA fiscal group size, net income and assets. MDHHS determines fiscal and asset groups separately for each person requesting MA. BEM 211 (October 2023), p. 5. In this case, MDHHS determined that Petitioner and Spouse had a group-size of two and based the income calculation on the receipt of \$2,481.00 in Retirement, Survivors, and Disability Insurance (RSDI) income (Exhibit A, p. 44). Petitioner did not dispute these determinations. Petitioner was entitled to the unearned income \$20.00 disregard, which would bring the net unearned income to \$2,461.00. BEM 541 (January 2023), p. 3. There was no evidence of other SSI-related MA income deductions.

Based on the circumstances, Petitioner and Spouse were 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 household income would have had to be \$1,663.50 or less for a fiscal group-size of two. RFT 242 (April 2024), p. 1. The household income exceeded this amount and therefore, Petitioner and Spouse were not eligible for Ad-Care MA.

MDHHS alleged that Petitioner and Spouse were 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 Van Buren County, where Petitioner resided, for a two-person MA group, was \$516.00 during the relevant time period. 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 or Spouse resided in an adult foster care home or home for

the aged. Therefore, Petitioner and Spouse were not eligible for any deductions for remedial service allowances.

Regarding health insurance premiums, MDHHS testified that Petitioner and Spouse's MSP coverage was terminated, effective March 1, 2024 due to excess income. However, the budget shows that MDHHS did not include the health insurance premiums that Petitioner and Spouse paid for Medicare Part B coverage on the MA budget for that month (Exhibit A, p. 44). Providing that Petitioner and Spouse did not have MSP coverage during that month, MDHHS should have included the amount that Petitioner and Spouse paid in health insurance premiums on the MA budget. Additionally, MDHHS did not include a determination notice informing Petitioner and Spouse of the termination of MSP coverage or the reason for the termination and did not adequately explain its action at the hearing. MDHHS is required to inform clients of negative actions that affect their benefits, pursuant to policy. See *generally*, BAM 220 (November 2023), pp. 1-24.


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 and Spouse's eligibility for MA and MSP 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 and Spouse's eligibility for MA and MSP, effective March 1, 2024 ongoing;
2. If eligible, provide Petitioner and Spouse with the most beneficial MA and MSP coverage that they are entitled to receive from March 1, 2024 ongoing; and
3. Notify Petitioner of its decision(s) 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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