



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: August 22, 2023
MOAHR Docket No.: 23-003679
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 via telephone conference line on July 31, 2023. Petitioner did not participate. Karen Sall of the Kent County Health Department participated as Petitioner's authorized hearing representative (AHR). The Michigan Department of Health and Human Services (MDHHS) was represented by Gina Ani, supervisor, and Lydia Rosses, specialist.

ISSUE

The issue is whether MDHHS properly processed 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. On [REDACTED] 2022, Petitioner applied for MA benefits and reported pregnancy.
2. On November 22, 2022, MDHHS approved Petitioner for MA benefits beginning November 2022 under Group 2 Pregnant Women (G2P), subject to a \$2,740 monthly deductible.
3. On February 23, 2023, MDHHS approved Petitioner for full coverage MA benefits beginning March 2023.

4. On March 7, 2023, Petitioner submitted to MDHHS documentation of an estimated cost of \$4,47.20 for childbirth. Petitioner also submitted documentation indicating an OB visit for an unspecified individual from October 28, 2022.
5. On June 23, 2023, Petitioner requested a hearing to dispute the absence of full-coverage MA benefits from October 2022 through February 2023.

CONCLUSIONS OF LAW

The 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. MDHHS administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MA policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute MA eligibility. Exhibit A, pp. 4-5. Petitioner applied for MA benefits on [REDACTED] 2022, and reported being pregnant. Exhibit A, pp. 22-29. A Health Care Coverage Determination Notice (HCCDN) dated November 22, 2022, stated that MDHHS approved Petitioner for MA benefits beginning November 2022, subject to a \$2,740 monthly deductible. Exhibit A, pp. 6-11. MDHHS testified it updated Petitioner's MA eligibility after a reported income change and issued a HCCDN on February 23, 2023, approving Petitioner for full-coverage MA benefits beginning March 2023. Exhibit A, pp. 13-16.

The only dispute concerned Petitioner's MA eligibility under Group 1 or Group 2 pregnancy-related categories. Petitioner's AHR contended that MDHHS should have issued MA benefits to Petitioner from October 2022 through February 2023 under the Group 1 category of PW. MDHHS contended it properly determined Petitioner to be eligible for the Group 2 MA category of Pregnant Women (G2W) from October 2022 through February 2023.

The MA program includes several sub-programs or categories. BEM 105 (January 2021) 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.*

One distinction between MA categories is Group 1 and Group 2. Generally, the terms Group 1 and Group 2 relate to financial eligibility factors. *Id.* For Group 1 MA categories, 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 non-medical needs such as food and shelter. *Id.* Medical expenses are not factored when determining eligibility for Group 1 categories. *Id.*

For Group 2 MA categories, 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.*

Petitioner's AHR acknowledged that Petitioner's financial circumstances dictated initial eligibility for an MA deductible of \$2,470 (i.e., she was limited to G2P eligibility) in November 2022. However, Petitioner's AHR contended that Petitioner met her deductible in October 2022 which should have triggered ongoing MA eligibility under the Group 1 MA category of PW.

If a client's net income exceeds the Group 2 needs (see BEM 544), MA eligibility is still possible. BEM 126 (April 2022) p. 2. The deductible for a pregnant woman is usually met at the first office visit because the woman incurs the full cost of the obstetric (OB) services (including labor and delivery) at her first OB visit.¹ *Id.* Her coverage should then be updated to MAGI-related Pregnant Women (PW) for the remainder of the pregnancy and twelve months post-partum; see BEM 545. *Id.*

MDHHS received two documents from Petitioner on March 7, 2023: an estimate for the cost of childbirth and a "Problem History" indicating a physician note on October 28, 2022. Exhibit A, pp. 17-18 and 31. MDHHS acknowledged BEM 126 but seemed to contend (it was not clear) that BEM 126 does not apply to an estimate and OB visit submitted more than three months after the application date. MDHHS cited BEM 545 to support its contention; however, BEM 126 and 545 specifically directs MDHHS to update MAGI-related pregnancy-related MA benefits, starting with the first OB visit and for the remainder of the pregnancy plus twelve post-partum months. BEM 126 makes no mention of when verification of the first OB visit is received by MDHHS. This consideration suggests that MDHHS incorrectly refused to update MA eligibility based on receipt of the childbirth estimate and/or first OB visit.²

Petitioner seeks MA benefits from October 2022. Petitioner did not apply for MA benefits until November 2022 and did not claim a need for retroactive MA benefits on her application. Typically, MDHHS has no basis to authorize MA benefits to Petitioner for a month that MA benefits are not requested. However, BEM 126 seems to nullify the generality by requiring a deductible to be met upon MDHHS's receipt of proof of the first OB visit and childbirth cost exceeding a deductible. Thus, it is of no matter whether Petitioner applied for MA benefits in October 2022.

MDHHS expressed concern that Petitioner's verification of a first OB visit was questionable for lacking Petitioner's name. MDHHS's concern is reasonable. Under the circumstances, MDHHS would be justified in sending Petitioner a Verification Checklist

¹ A similar policy appears in BEM 545 (July 2022) pp. 1-2.

² If MDHHS is concerned with timeliness of verification, it should request verification of the first OB visit from a client before denying ongoing benefits. In the present case, MDHHS presented no evidence of such a verification request.

(see BAM 130) requesting an updated first OB visit with Petitioner's name on it before BAM 126 is applied. However, MDHHS's concern does not justify denying Group 1 MA to Petitioner before requesting an updated verification.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly processed MA benefits for Petitioner from October 2022. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Request verification of Petitioner's first OB visit from October 2022 subject to the requirements of BAM 130; and
- (2) Issue supplements in accordance with BEM 126 requiring MA eligibility from the date of OB visit, if verified.

Concerning Petitioner's MA eligibility from October 2022 through February 2023, the actions taken by MDHHS are **REVERSED**.

CG/mp



Christian Gardocki

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
MDHHS-Kent-Hearings
EQAD Hearings
M. Schaefer
MOAHR
BSC3

Via-First Class Mail :

Authorized Hearing Rep.
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Petitioner

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