



GRETCHEN WHITMER
GOVERNOR

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

MARLON I. BROWN, DPA
ACTING DIRECTOR

Date Mailed: November 28, 2023
MOAHR Docket No.: 23-006566
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Danielle Nuccio

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 November 6, 2023. Petitioner appeared and represented herself, with assistance from her adult son, [REDACTED]. The Department of Health and Human Services (Department) was represented by Haysem Hosny, Hearings Facilitator.

ISSUE

Did MDHHS properly calculate Petitioner's Medicaid (MA) spenddown amount?

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 an ongoing recipient of Medicare.
2. On [REDACTED] 2023, Petitioner applied for MA for her husband and herself. Petitioner and her husband file taxes jointly (Exhibit A, pp. 7-21).
3. Petitioner receives \$[REDACTED] in monthly Retirement, Survivors, Disability Insurance (RSDI). Petitioner's husband receives \$[REDACTED] in monthly RSDI.
4. On September 11, 2023, MDHHS sent Petitioner a Health Care Coverage Determination Notice notifying Petitioner that, effective September 1, 2023, Petitioner was eligible for MA Plan First and MA with a deductible amount of \$1,191.00 (Exhibit A, pp. 22-27).

5. On October 6, 2023, MDHHS received Petitioner's hearing request disputing the change in her MA coverage to include a monthly deductible or spenddown (Exhibit A, pp. 4-5).

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 MA program is established by Title XIX of the Social Security Act, 42 USC 1396 *et seq*; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, PL 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, PL 111-152; 42 CFR 430.10 to 42 CFR 430.25; 42 CFR 431.200 to 431.250; and 42 CFR 438.400 to 438.424. MDHHS administers the MA program pursuant to 42 CFR 435, MCL 400.10 and MCL 400.103 to MCL 400.112k of the Social Welfare Act, MCL 400.1 *et seq*.

Upon reviewing Petitioner's eligibility criteria, MDHHS concluded that Petitioner is not eligible for full MA coverage but is eligible under the Group 2 Medicaid program with a \$1,191.00 deductible and Plan First MA. Petitioner disputes the monthly deductible or spenddown amount.

Because Petitioner is a Medicare recipient and there was no evidence that Petitioner was the parent or caretaker of a minor child, Petitioner was eligible for MA only under an SSI-related category. In determining the SSI-related MA category Petitioner is eligible for, MDHHS must determine Petitioner's MA fiscal group size and net income. BEM 105 (January 2021), p. 1. Petitioner and her husband file taxes together and are considered a group size of two. BEM 211 (July 2019), p. 1. Petitioner's household's net income for MA purposes is \$ [REDACTED] (Petitioner's gross RSDI income of \$ [REDACTED] plus her husband's RSDI income of \$ [REDACTED] reduced by a \$20 disregard). BEM 541 (January 2023), p. 3. Based on her net income, Petitioner has excess income for eligibility under the AD-Care program, the full-coverage SSI-related MA program. BEM 163 (July 2013), p. 2; RFT 242 (April 2017), p. 1; <https://aspe.hhs.gov/poverty-guidelines>. MDHHS concluded that Petitioner's net income of \$ [REDACTED] exceeded the net income limit and the federal poverty limit and determined that Petitioner is not eligible for the full coverage Ad-Care program.

However, clients who are ineligible for full-coverage MA coverage because of excess income may still be eligible for SSI-related MA under a Group 2 SSI (G2S) program, which provides for MA coverage with a monthly deductible. BEM 105, p. 1; BEM 166 (April 2017), p. 1. The deductible is in the amount that a client's net income (less any allowable needs deductions) exceeds the applicable Group 2 MA protected income levels (PIL). The PIL is a set amount identified in policy based on the client's MA fiscal group size and county of residence. BEM 105, p. 1; BEM 166, pp. 1-2; BEM 544 (July

2020), p. 1; RFT 240 (December 2013), p. 1; RFT 200 (April 200), p. 3. The monthly PIL for a client in Petitioner's position, with an MA fiscal group size of two living in Macomb County, is \$541.00 per month. RFT 200, p. 3; RFT 240, p. 1. Thus, if Petitioner's monthly net income (less allowable needs deductions) exceeds \$541.00, Petitioner is eligible for MA assistance under the deductible program, with the deductible equal to the amount that monthly net income, less allowable deductions, exceeds \$541.00. BEM 545 (July 2022), pp. 2-3.

MDHHS presented an SSI-related MA budget showing the calculation of Petitioner's deductible (Exhibit A, p. 28) that was reviewed on the record. 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, Petitioner does not reside in an adult foster care home or home for the aged and, as such, is not eligible for any remedial service allowances. The State pays Petitioner's monthly Part B Medicare premium, and there was no evidence presented that Petitioner has any other health insurance premium expenses. Because Petitioner is not responsible for health insurance premiums, she has no allowable need deductions. BEM 544, p. 1. Therefore, because Petitioner's countable income of \$[REDACTED] for MA purposes exceeds the monthly protected income level of \$541.00 by \$[REDACTED], MDHHS properly calculated Petitioner's monthly \$1,094.00 MA deductible in accordance with Department policy.

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 MDHHS acted in accordance with Department policy when it determined Petitioner's MA eligibility and deductible amount.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

DN/mp



Danielle Nuccio

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 :

Interested Parties

MDHHS-Macomb-36-Hearings
EQAD Hearings
M. Schaefer
MOAHR
BSC4

Via-First Class Mail :

