



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA
DIRECTOR

[REDACTED] MI [REDACTED]

Date Mailed: July 24, 2024
MOAHR Docket No.: 24-005056
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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 July 11, 2024, from Detroit, Michigan. Petitioner appeared for the hearing with her partner [REDACTED] and represented herself. The Department of Health and Human Services (Department) was represented by Thomas Jones, Assistance Payments Supervisor.

ISSUE

Did the Department properly determine Petitioner's eligibility for Medical Assistance (MA) 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. Petitioner was previously an ongoing recipient of MA benefits. On an unverified date and for an unknown reason, Petitioner's MA case was closed.
2. On or around [REDACTED] 2024, Petitioner submitted an application requesting MA and Medicare Savings Program (MSP) benefits.
3. On or around April 2, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice (Notice), advising her that she was ineligible for MSP benefits because her income exceeded the income limit for the program. The Notice also advised Petitioner that she was eligible for MA under the Group 2 Aged, Blind, Disabled (G2S) category subject to a monthly deductible of \$1,116 for the month of

February 2024; \$1,107 for the month of March 2024; and that effective April 1, 2024, ongoing, her deductible would be \$1,162. (Exhibit A, pp. 11-14)

4. On or around April 26, 2024, Petitioner requested a hearing disputing the Department's actions with respect to her MA benefits. Petitioner asserted that she should be eligible for MA as a Disabled Adult Child (DAC). (Exhibit A, pp. 3-4)
5. As of the hearing date, the DAC determination unit had not determined if Petitioner would be considered a DAC for MA purposes.

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.

In this case, Petitioner disputed the Department's determination that she was eligible for MA under the G2S category with a deductible and that she was ineligible for MSP benefits due to excess income. In her request for hearing, Petitioner asserted that she is legally blind and should qualify for MA under the Disabled Adult Child (DAC) category, as she is an adult child with disabilities.

MA is available (i) under SSI-related categories to individuals who are aged (65 or older), blind or disabled, (ii) to individuals who are under age 19, parents or caretakers of children, or pregnant or recently pregnant women, (iii) to individuals who meet the eligibility criteria for Healthy Michigan Plan (HMP) coverage, and (iv) to individuals who meet the eligibility criteria for Plan First Medicaid (PF-MA) coverage. 42 CFR 435.911; 42 CFR 435.100 to 435.172; BEM 105 (January 2024), p. 1; BEM 137 (June 2020), p. 1; BEM 124 (July 2023), p. 1. Under federal law, an individual eligible under more than one MA category must have eligibility determined for the category selected and is entitled to the most beneficial coverage available, which is the one that results in eligibility and the least amount of excess income or the lowest cost share. BEM 105, p. 2; 42 CFR 435.404.

MSP are SSI-related MA categories. There are three MSP categories: Qualified Medicare Beneficiaries (QMB); Specified Low-Income Medicare Beneficiaries (SLMB); and Additional Low-Income Beneficiaries (ALMB). BEM 165 (October 2022), p. 1. QMB is a

full coverage MSP that pays Medicare premiums (Medicare Part B premiums and Part A premiums for those few people who have them), Medicare coinsurances, and Medicare deductibles. SLMB pays Medicare Part B premiums and ALMB pays Medicare Part B premiums provided funding is available. Income is the major determiner of category. BEM 165, pp. 1-2.

Petitioner is potentially eligible for SSI-related MA, which is MA for individuals who are blind, disabled or over age 65. BEM 105, p. 1. Individuals are eligible for Group 1 coverage, with no deductible, if their income falls below the income limit, and eligible for Group 2 coverage, with a deductible that must be satisfied before MA is activated, when their income exceeds the income limit. BEM 105, p. 1. Petitioner is also potentially eligible for MSP benefits if certain criteria is met, including that her income and assets are below the applicable limits for each category of MSP.

At the hearing, the Department representative testified that after processing Petitioner's [REDACTED] 2024, application, the Department determined that Petitioner was not income eligible for Group 1 MA without a deductible under the Ad-Care category. The Department representative testified that it determined Petitioner was only eligible for MA under the G2S category with a monthly deductible. The G2S category is an SSI-related Group 2 MA category, the eligibility of which must be considered only when eligibility does not exist under BEM 155 through 164, 170, or 171. BEM 166 (April 2017). The Department policy which references DAC MA eligibility is found at BEM 158 (October 2014). Additionally, the Department determined that Petitioner had excess income for the MSP. It is noted that persons receiving MA under the DAC category and entitled to Medicare A are considered eligible for MSP under the QMB category without a separate QMB determination. BEM 165, p.3; BEM 158, pp. 1-2.

DAC MA is an SSI-related Group 1 MA category and is available to a person receiving DAC (also called Childhood Disability Beneficiaries' or CDBs') RSDI benefits under section 202(d) of the Social Security Act **if** he or she meets **all** of the following conditions:

- is age 18 or older; and
- received SSI; and
- ceased to be eligible for SSI on or after July 1, 1987, because she became entitled to DAC RSDI benefits under section 202(d) of the Act or an increase in such RSDI benefits; and
- is currently receiving DAC RSDI benefits under section 202(d) of the Act (based on having a disability or blindness that began before age 22); and
- would be eligible for SSI without such RSDI benefits.

An individual may be receiving DAC RSDI benefits if one of the following descriptions applies:

- she has been identified as a DAC by central office or an SSI letter and the social security claim number suffix contains the letter C, which may be followed by another letter or number (CA, CB, C1, etc.).
- she is more than 19 years 2 months old and her social security claim number suffix contains the letter C, which may be followed by another letter or number (CA, CB, C1, etc.).
- she is age 18 or older, **not** a full-time student in elementary or secondary school and her social security claim number contains the letter C, which may be followed by another letter or number (CA, CB, C1, etc.).

BEM 158, pp. 1-3.

The Department representative testified that after receiving Petitioner's request for hearing, an email was sent to the DAC determination unit to review Petitioner's eligibility for MA as a DAC. However, the Department conceded that Petitioner's MA eligibility under the DAC category was not considered prior to the issuance of the April 2, 2024, Health Care Coverage Determination Notice, approving Petitioner for MA under the G2S and denying her MSP eligibility. As referenced above, Department policy provides that persons may qualify under more than one MA category and federal law gives persons the right to the most beneficial category which is considered the category that results in eligibility, the least amount of excess income, or the lowest cost share. BEM 105, p.2. The Department must consider all of the MA category options in order for the client's right of choice to be meaningful. BEM 105, p.2.

Therefore, because the Department did not consider Petitioner's eligibility for DAC MA prior to approving her for MA under the G2S, and, because MA benefits under the DAC are potentially more beneficial than the limited coverage G2S, the Department failed to properly process Petitioner's MA benefits and determine her eligibility for all MA categories.

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 processed Petitioner's MA benefits.


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. Reprocess Petitioner's [REDACTED] 2024, MA/MSP application to determine eligibility under the most beneficial category, and consider her eligibility for DAC MA for January 1, 2024, ongoing;
2. If eligible, provide MA and MSP coverage to Petitioner under the most beneficial category, that she was entitled to receive but did not from January 1, 2024, ongoing; and
3. Notify Petitioner in writing of its decision.

ZB/ml


Zainab A. Baydoun
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:

Respondent

Yaita Turner

Oakland County Southfield District III

25620 W. 8 Mile Rd

Southfield, MI 48033

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Interested Party

BSC4

E Holzhausen

J McLaughlin

MOAHR

Via First Class Mail:

Petitioner

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]