



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



Date Mailed: August 14, 2024
MOAHR Docket No.: 24-006532
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 25, 2024, from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Kendra Woodard, Eligibility Specialist and Latora Giles, Assistance Payments Supervisor.

ISSUE

Did the Department properly determine Petitioner's household'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 and her three adult children ([REDACTED] [age [REDACTED], [REDACTED] [age [REDACTED] and [REDACTED] [age [REDACTED] were ongoing recipient of MA benefits.
2. Since December 2023, Petitioner was approved for MA under the Group 2 Aged Blind Disabled (G2S) category with a monthly deductible. Petitioner was also approved for Medicare Savings Program (MSP) benefits
3. Petitioner's adult children were approved for full coverage MA.
4. In connection with a redetermination, MA eligibility for the household was reviewed. (Exhibit A, pp. 6-19)

5. On or around May 14, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice (Notice) advising her that effective June 1, 2024, she was approved for MA subject to a monthly deductible of \$1,051. The Notice also advised that all three of Petitioner's children were ineligible for MSP benefits effective June 1, 2024. (Exhibit A, pp. 20-26)
6. On or around May 17, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice again advising that effective June 1, 2024, Petitioner's three children were ineligible for MSP benefits. (Exhibit A, pp. 28-32)
7. Although not reflected on either of the Health Care Coverage Determination Notices, MA benefits for Petitioner's three children were terminated effective June 1, 2024.
8. On or around May 30, 2024, Petitioner requested a hearing disputing the Department's action with respect to the MA program. Petitioner specifically disputed the closure of her children's MA cases and the Department's MA and MSP eligibility determination for herself. (Exhibit A, pp. 4-7)
9. At the hearing, the Department conceded that MA benefits for Petitioner's three children were terminated in error and that a Bridges Help Desk Ticket was requested in order to reinstate full coverage MA for [REDACTED] and [REDACTED]
10. Petitioner confirmed that there is no longer any issue regarding her MSP benefits as she has been approved for MSP coverage with no lapse since December 2023. Petitioner further confirmed that the Social Security Administration (SSA) has not withheld any of her monthly benefits to pay for her Medicare premiums.

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 requested a hearing disputing the Department's action with respect to the MA program. Petitioner indicated that the MA cases for her three adult children were closed. While the issue with respect to Petitioner's MSP case was resolved, Petitioner disputed the MA G2S deductible determination. (Exhibit A, pp. 4-7)

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 (October 2023), p. 1; BEM 137 (June 2020), p. 1; BEM 124 (July 2023), p. 1.

Children over age one and under age 19 are potentially eligible for three programs: (1) the Under Age 19 (U19) program; (2) the MiChild program; and (3) the Group 2 Under 21 (G2U) program. BEM 105 (October 2023), pp. 1, 3-4; BEM 130 (July 2021), p. 1; BEM 131 (January 2022), p. 1; BEM 132 (April 2018), p. 1. There are three U19 categories for children under age 6: the Low Income Families (LIF) program applies when the household's income does not exceed 54% of the federal poverty level (FPL); the Other Healthy Kids (OHK) program applies when the household's income is between 54% and 143% of the FPL; and the Healthy Kids Expansion (HKE) program applies when the household's income is between 143% and 160% of the FPL. BEM 131, p. 1. A child between age 1 through 18 whose household income is between 160% and 212% of the FPL is income eligible for MiChild subject to a monthly \$10 premium per family. BEM 130, pp. 1-2.

HMP is a MAGI-related MA category that provides MA coverage to individuals who (i) are 19 to 64 years of age; (ii) have income under the MAGI methodology at or below 133% of the federal poverty level (FPL); (iii) do not qualify for or are not enrolled in Medicare; (iv) do not qualify for or are not enrolled in other MA programs; (v) are not pregnant at the time of application; and (vi) are residents of the State of Michigan. BEM 137, p. 1; 42 CFR 435.603.

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.

At the hearing, the Department representative conceded that the MA cases for Petitioner's three children were closed in error effective June 1, 2024. There was no evidence that the Department issued an eligibility or negative action notice advising of the case closures. The Department representative testified that a Bridges Help Desk Ticket was requested in order to reinstate full coverage MA for [REDACTED] [REDACTED] and [REDACTED] however, as of the hearing date, the MA coverage had not been certified. The Department representative testified that because of their age, Petitioner's children may need their own MA cases. The Department representative testified that [REDACTED] and [REDACTED] should have been approved for continued HMP coverage and [REDACTED] should be approved for full coverage HKE benefits. The Department asserted that the MA cases should be certified and approved for full coverage MA.

With respect to Petitioner's MA eligibility, the Department asserted that Petitioner has been approved for MA under the G2S subject to a monthly deductible since December 1, 2023. Because Petitioner is enrolled in Medicare, she is not eligible for full coverage MA under the HMP and is not eligible for full coverage MA under a MAGI category as her children are not under age 18. Thus, the Department properly concluded that Petitioner was 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. Ad-Care coverage is a SSI-related Group 1 MA category which must be considered before determining Group 2 MA eligibility. BEM 163 (July 2017), p. 1. Eligibility for Ad-Care is based on the client meeting nonfinancial and financial eligibility criteria. BEM 163, pp. 1-2. The eligibility requirements for Group 2 MA and Group 1 MA Ad-Care are the same, other than income. BEM 166 (April 2017), pp. 1-2.

Income eligibility for the Ad-Care program is dependent on MA fiscal group size and net income which cannot exceed the income limit in RFT 242. BEM 163, p. 2. Petitioner has a MA fiscal group of one. BEM 211 (October 2023), pp. 5-8. Effective April 1, 2024, an MA fiscal group with one member is income-eligible for full-coverage MA under the Ad-Care program if the group's net income is at or below [REDACTED] which is 100 percent of the Federal Poverty Level, plus the \$20 disregard. RFT 242 (April 2023), p. 1. Thus, the income limit for Ad-Care eligibility is [REDACTED]

The Department is to determine countable income according to SSI-related MA policies in BEM 500 and 530 *except* as explained in the countable RSDI section of BEM 163. The Department will also apply the deductions in BEM 540 (for children) or 541 (for adults) to countable income to determine net income. BEM 163, p. 2.

The Department asserted that Petitioner had excess income for the Ad-Care program. The Department representative testified that it considered Petitioner's unearned income which totaled [REDACTED] and was based on her receipt of gross monthly RSDI/Social Security benefits. Petitioner's confirmed that she receives [REDACTED] in RSDI/Social Security. The Department properly considered the unearned income general exclusion of \$20. BEM 503 (January 2023), pp. 29-30. Therefore, the Department determined that Petitioner had countable income of [REDACTED]

After further review of Department policy and based on the testimony provided at the hearing, because Petitioner's [REDACTED] countable income exceeds the net income limit for the Ad-Care program, the Department acted in accordance with Department policy when it determined that Petitioner was ineligible for full coverage MA benefits under the Ad-Care program without a deductible and determined that she would be eligible for MA under the G2S program with a monthly deductible.

Additionally, deductible is a process which allows a client with excess income to become eligible for Group 2 MA if sufficient allowable medical expenses are incurred. BEM 545 (July 2022), p. 10. Individuals are eligible for Group 2 MA coverage when net income

(countable income minus allowable income deductions) does not exceed the applicable Group 2 MA protected income levels (PIL), which is based on shelter area and fiscal group size. BEM 105, pp. 1-2; BEM 166, pp. 1-2; BEM 544 (January 2020), p. 1; RFT 240 (December 2013), p. 1. The PIL is a set allowance for non-medical need items such as shelter, food and incidental expenses. BEM 544, p. 1. The monthly PIL for an MA group of one living in ██████ County is ██████ per month. RFT 200 (April 2017), pp. 1-2; RFT 240, p. 1. Thus, if Petitioner's net monthly income is in excess of the ██████ she may become eligible for assistance under the deductible program, with the deductible being equal to the amount that her monthly income exceeds ██████ BEM 545, p. 1. To meet a deductible, a MA client must report and verify allowable medical expenses (defined in Exhibit I) that equal or exceed the deductible amount for the calendar month being tested. The group must report expenses by the last day of the third month following the month in which client wants MA coverage. BEM 545, p. 11. The Department is to add periods of MA coverage each time the group meets its deductible. BEM 545, p.11.

The Department determined that effective June 1, 2024, Petitioner was eligible for MA under the G2S category with a monthly deductible of \$1,051. At the hearing, the Department representative presented the SSI-Related Medicaid Income Budget to explain the \$1,051 deductible calculation. (Exhibit A, p. 40). As referenced above, the Department properly considered unearned income from RSDI/Social Security in the gross total amount of ██████ and properly applied the \$20 unearned income exclusion.

There was no evidence that Petitioner is responsible for monthly insurance premiums, as the Department is paying her Medicare premiums through the Medicare Savings Program. There was no evidence that any medical expenses were submitted for consideration. Petitioner was informed that should she submit the expenses to the Department in accordance with BEM 545, the Department would review the expenses and determine their applicability to Petitioner's monthly deductible. There was no evidence that Petitioner was entitled to any additional deductions to income such as guardianship/conservator expenses or remedial services.

Upon review, the Department properly considered Petitioner's unearned income and took into consideration the appropriate deductions to income. Based on the evidence presented because Petitioner's countable income of ██████ for MA purposes exceeds the monthly protected income level of ██████ by \$1,051, the Department properly calculated Petitioner's monthly \$1,051 MA deductible in accordance with Department policy. Therefore, based on the information relied upon by the Department, the Department properly determined that Petitioner was eligible for MA under the G2S program with a monthly deductible of \$1,051.

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 acted in accordance with Department policy when it determined Petitioner's MA eligibility but did not act in accordance with Department policy when it closed the MA cases for Petitioner's three children effective June 1, 2024.


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. Reinstatement the MA cases for [REDACTED] [REDACTED] and [REDACTED] effective June 1, 2024, ongoing;
2. Provide MA coverage under the most beneficial category to [REDACTED] [REDACTED] and [REDACTED] [REDACTED] from June 1, 2024, ongoing, and
3. Notify Petitioner in writing of its MA decisions.

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:

DHHS

Denise Key-McCoggle
Wayne-Greydale-DHHS
27260 Plymouth Rd
Redford, MI 48239

MDHHS-Wayne-15-Greydale-Hearings@michigan.gov

Interested Parties

BSC4
M Schaefer
EQAD
MOAHR

Via First Class Mail:

Petitioner

[REDACTED]
MI