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GOVERNOR

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

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Date Mailed: August 23, 2024
MOAHR Docket No.: 24-006565
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 July 24, 2024, via teleconference. Petitioner appeared and represented herself. ██████████ ██████████ appeared as a witness for Petitioner. Sunshine Simonson 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. 1-18. Petitioner’s proposed exhibit was admitted as Petitioner’s Exhibit 1, p. 1.

ISSUE

Did MDHHS properly determine Petitioner’s 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. Petitioner was an ongoing recipient of MA and MSP benefits, receiving full-coverage MA under the MA-Terminated SSI category through May 31, 2024 (Exhibit A, p. 7).
2. Effective June 1, 2024 ongoing, MDHHS determined that Petitioner was eligible for MA under the Group 2 Aged, Blind, Disabled (G2S) MA category with a monthly deductible of \$1,220.00 (Exhibit A, p. 16), and that Petitioner was not eligible for Medicare Savings Program (MSP) benefits (Exhibit A, p. 7).
3. On May 28, 2024, Petitioner requested a hearing regarding her MA coverage (Exhibit A, p. 4).

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.

The Medicare Savings Program (MSP) is a state program administered by MDHHS in which the state pays an eligible client's Medicare premiums, coinsurances, and deductibles, with coverage depending on the MSP category that the client is eligible to receive based on the client's income. BEM 165 (June 2024), pp 1-2; BAM 810 (January 2020), p. 1. All eligibility factors for the program must be met in the calendar month being tested. BEM 165, p. 2. There MSP categories are as follows: (1) QMB (Qualified Medicare Beneficiary), which pays for a client's Medicare premiums (both Part A, if any, and Part B), Medicare coinsurances and Medicare deductibles; (2) Specified Low-Income Medicare Beneficiaries (SLMB), which pays for a client's Medicare Part B premiums; (3) Additional Low Income Medicare Beneficiaries (ALMB), which pays for a client's Medicare Part B premiums when funding is available; and (4) Non-Categorically Eligible Michigan Beneficiary, which pays the Medicare Part B premiums (and the part A premiums for the few who have them) for full coverage Medicaid beneficiaries not otherwise eligible for MSP. BEM 165, pp. 1-2.

In this case, MDHHS determined that Petitioner was eligible for G2S MA with a monthly deductible of \$1,220.00 and ineligible for MSP benefits, effective June 1, 2024 ongoing. Petitioner disputed MDHHS' determinations and the calculation of the deductible amount.

MA includes several sub-programs or categories. BEM 105 (January 2024), 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.* 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.*

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.*

To evaluate Petitioner's eligibility for MA, MDHHS must determine Petitioner's MA fiscal group size, net income and assets. Petitioner received monthly Retirement, Survivors, and Disability Insurance (RSDI) income. MDHHS budgeted \$1,615.00 for Petitioner's RSDI income, beginning January 1, 2024 (Exhibit A, p. 18). Petitioner introduced an RSDI Award Letter which indicated that MDHHS would no longer pay Petitioner's Medicare Part B premium after May 2024 (Exhibit 1, p. 1). The Award Letter further indicated that Petitioner would receive \$1,231.30 for June 2024 in July 2024 and after that she would receive \$1,406.00 monthly (Exhibit 1, p. 1).

MDHHS introduced a budget which calculated Petitioner's deductible for G2S MA (Exhibit A, p. 17). MDHHS budgeted \$1,615.00 in gross RSDI income for Petitioner. 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 (January 2020), pp. 1-3. MDHHS budgeted \$0.00 in insurance premiums. However, if Petitioner was no longer eligible for MSP, then MDHHS should have budgeted a deduction for her Medicare Part B premium. Additionally, MDHHS should verify the amount of Petitioner's gross RSDI income given the Award Letter that she provided, pursuant to policies in BAM 130 (May 2024), p. 1.

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 MDHHS failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner's eligibility for MA and MSP benefits.

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's eligibility for MA and MSP benefits, effective June 1, 2024 ongoing;
2. Provide Petitioner with the most beneficial category of MA coverage and MSP that she is eligible to receive; and
3. Notify Petitioner of its decision in writing.

LJ/pt


Linda Jordan
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

Tara Roland 82-17
Wayne-Greenfield/Joy-DHHS
8655 Greenfield
Detroit, MI 48228

MDHHS-Wayne-17-hearings@michigan.gov

Interested Parties

BSC4
M. Schaefer
EQAD
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Via-First Class Mail:

Petitioner

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