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GOVERNOR

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

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Date Mailed: September 6, 2024
MOAHR Docket No.: 24-007554
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 August 6, 2024, via teleconference. Petitioner appeared and represented herself. ██████████ ██████████ appeared as a witness for Petitioner. Avery Smith, Assistance Payments Worker, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department). MDHHS' Hearing Packet was admitted into evidence as MDHHS Exhibit A, pp. 1-27.

ISSUE

Did MDHHS properly determine Petitioner's household eligibility for Medicaid (MA) coverage and Medicare Savings Program (MSP)?

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 recipients of Medicaid (MA) coverage and Medicare Savings Program (MSP) benefits.
2. On May 22, 2024, MDHHS sent Petitioner a Health Care Coverage Determination Notice indicating that she was approved for MA with a deductible of \$691.00 and MSP coverage, effective May 1, 2024 ongoing (Exhibit A, p. 15).
3. On ██████████ 2024, Petitioner submitted an additional application for health care coverage (Exhibit A, p. 6).

4. On May 30, 2024, MDHHS sent Petitioner a Health Care Coverage Determination Notice indicating that she was approved for MA with a deductible of \$691.00 and Plan First MA, a limited coverage category, effective May 1, 2024 ongoing. The notice indicated that Petitioner was not eligible for MSP benefits, effective May 1, 2024 ongoing (Exhibit A, p. 21).
5. On June 26, 2024, Petitioner requested a hearing regarding her MA eligibility (Exhibit A, p. 3).

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. MA is also known as Medical Assistance. BEM 105 (January 2024), p. 1.

In this case, MDHHS determined that Petitioner was eligible for Group 2 Aged, Blind, Disabled (G2S) MA with a monthly deductible of \$691.00 and Plan First MA, a limited coverage category, effective May 1, 2024 ongoing (Exhibit A, p. 5). Additionally, MDHHS sent Petitioner a notice stating that she was eligible for MSP benefits, effective May 1, 2024 ongoing. Then it sent her another notice on May 30, 2024 stating that she was ineligible for MSP benefits, effective May 1, 2024 ongoing.

MA includes several sub-programs or categories. BEM 105, 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.*

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.* Persons may qualify under more than one MA category. BEM 105, p. 3. 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.*

To evaluate Petitioner's eligibility for MA, MDHHS must determine the MA fiscal group size, net income and assets. MDHHS determines fiscal and asset groups separately for each person requesting MA. BEM 211 (July 2019), p. 5. For Petitioner, MDHHS determined that the group-size was one. There was no finding of excess assets. Petitioner did not dispute these determinations.

MDHHS presented a budget to show how it calculated Petitioner's deductible amount of \$691.00 (Exhibit A, p. 13). MDHHS based the household income calculation on Petitioner's receipt of \$[REDACTED] in Retirement, Survivors, Disability Insurance (RSDI) income (Exhibit A, p. 12). Petitioner did not dispute this amount. Petitioner was entitled to the \$20.00 disregard, which would bring the net unearned income to \$[REDACTED]. BEM 541 (January 2023), p. 3. There was no evidence of other SSI-related MA income deductions.

Based on Petitioner's circumstances, she was potentially eligible for Ad-Care MA. The Ad-Care program is a group 1, full-coverage SSI-related MA program for disabled individuals who are income-eligible based on their MA fiscal group size. BEM 163 (July 2017), p. 1. However, net income for the program cannot exceed 100% of the Federal Poverty Level (FPL). *Id.* To be income eligible for this program, the household income would have had to be \$1,275.00 or less for a fiscal group-size of one. RFT 242 (April 2024), p. 1. The household income of \$1,294.00 exceeded this amount and therefore, she was not eligible for Ad-Care MA.

MDHHS alleged that Petitioner and Spouse were eligible for G2S MA, which is an SSI-related Group 2 MA category. BEM 166, p. 1. MDHHS considers eligibility under this category only when eligibility does not exist under BEM 155 through 164, 170 or 171. *Id.* Income eligibility exists for G2S MA when net income does not exceed the Group 2 needs in BEM 544. *Id.*, p. 2. If the net income exceeds Group 2 needs, MA eligibility is still possible with a deductible, per BEM 545. *Id.* The deductible is equal to the amount the individual's net income, calculated in accordance with the applicable Group 2 MA policy, minus the applicable Group 2 MA protected income level (PIL). The PIL is a set allowance for non-medical need items such as shelter, food and incidental expenses that is based on the county in which the client resides and the client's fiscal MA group size. BEM 544 (January 2020), p. 1. The [REDACTED] for [REDACTED] where Petitioner resided, for a one-person MA group, was \$408.00. RFT 200 (April 2017), p. 2; RFT 240 (December 2013), p. 1.

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, no evidence was presented that Petitioner resided in an adult foster care home or home for the aged. Therefore, she was not eligible for any deductions for remedial service allowances.

MDHHS budgeted a \$174.70 deduction for Petitioner's Part B premium. At the hearing, MDHHS stated that Petitioner was eligible for MSP benefits and that the second notice was sent in error. However, if Petitioner was receiving MSP benefits, then MDHHS should not have budgeted the \$174.70 deduction for her insurance premium because MSP Specified Low-Income Medicare Beneficiaries (SLMB) covers Medicare Part B premiums. BEM 165 (June 2024), p. 1-2. Due to this inconsistency on the record, it is unclear whether MDHHS properly determined Petitioner's eligibility for MA and MSP.

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 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 May 1, 2024 ongoing;
2. Provide Petitioner with the most beneficial category of MA and MSP benefits, effective May 1, 2024 ongoing; 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

Tracey Jones
Oakland County Southfield District III
25620 W. 8 Mile Rd
Southfield, MI 48033
MDHHS-Oakland-6303-Hearings@michigan.gov

Interested Parties

BSC4
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Via-First Class Mail :

Petitioner

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