



GRETCHEN WHITMER
GOVERNOR

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

MARLON BROWN
DIRECTOR

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Date Mailed: October 1, 2024
MOAHR Docket No.: 24-007666
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: L. Alisyn Crawford

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 August 22, 2024. Petitioner was represented by ██████████ her authorized hearing representative (AHR). Petitioner was present at the hearing but did not testify. Also present at the hearing as Petitioner's witnesses were ██████████ Petitioner's community living supports worker, and ██████████ Petitioner's mother. The Department of Health and Human Services (Department) was represented by Jamila Goods, Eligibility Specialist.

ISSUE

Did the Department properly determine Petitioner's eligibility for Medical Assistance (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 receiving MA coverage based on her receipt of Supplemental Security Income (SSI) benefits.
2. Petitioner is ██████ years old and disabled.
3. Petitioner stopped receiving SSI income and currently her monthly income consists of Retirement, Survivors, and Disability Insurance (RSDI) in the amount of ██████████
4. On April 9, 2024, the Department sent Petitioner a notice indicating that it converted her MA coverage to SSI-Terminated MA coverage because it received information from the Social Security Administration (SSA) that her SSI benefits had ended and

it was required to close her SSI-related MA coverage and determine ongoing MA eligibility in another category if she submitted eligibility forms to the Department by May 10, 2024.

5. On [REDACTED] 2024, the Department received an assistance application completed by Petitioner's authorized representative regarding MA coverage eligibility. (Exhibit A, pp. 18-23).
6. On April 26, 2024, the Department received a completed Application for Health Coverage & Help Paying Costs, DCH-1426 form for Petitioner. (Exhibit A, pp. 24-39).
7. On May 22, 2024, the Department sent a Health Care Coverage Determination Notice (HCCDN) to Petitioner informing her that she was approved for MA coverage under the Plan First Family Planning (PFFP) program and a plan with a monthly deductible of \$1,370 effective July 1, 2024. (Exhibit A, pp. 40-46). The HCCDN also informed Petitioner that she was ineligible for the Medicare Savings Program (MSP) due to excess income. (Exhibit A, p. 41).
8. On June 26, 2024, the Department received a request for hearing from Petitioner disputing the Department's actions regarding her MSP coverage. (Exhibit A, pp. 3-5).

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 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's AHR requested a hearing to dispute the Department's determination denying Petitioner for MSP coverage and regarding Petitioner's MA coverage eligibility. The Department terminated Petitioner's SSI-related MA coverage because it received information that her SSI benefits had ended. Following the submission of Petitioner's assistance application, the Department concluded that she was eligible for PFFP coverage and coverage under the Group 2 Aged, Blind and Disabled (G2S) program with a monthly deductible of \$1,370 effective July 1, 2024. (Exhibit A, p. 40). Additionally, in the request for hearing, Petitioner's AHR asserted that Petitioner

should be eligible for MSP coverage under the Non-Categorically Eligible Michigan Beneficiary (NMB) program. (Exhibit A, p. 4).

MA

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 Family Planning (PFFP) coverage. 42 CFR 435.911; 42 CFR 435.100 to 435.172; BEM 105 (January 2024), p. 1; BEM 137 (January 2024), 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 (January 2024), p. 2; 42 CFR 435.404.

Because Petitioner is disabled and a Medicare recipient and there is no evidence that Petitioner was the parent or caretaker of a minor child, Petitioner is eligible for MA only under an SSI-related category. In determining the SSI-related MA category Petitioner is eligible for, the Department must determine Petitioner's MA fiscal group size and net income. As an unmarried individual, Petitioner has a fiscal group size for SSI-related MA purposes of one. BEM 211 (October 2023), p. 8. The household's net income for MA purposes is [REDACTED] (Petitioner's gross income from RSDI of [REDACTED] reduced by a \$20 disregard). BEM 541 (January 2024), p. 3.

Based on this net income, Petitioner has excess income for eligibility under the AD-Care program, the full-coverage SSI-related MA program, which has income limit of \$1,275. BEM 163 (July 2017), p. 2; RFT 242 (April 2024), p. 1; <https://aspe.hhs.gov/poverty-guidelines>. However, clients who are ineligible for full-coverage MA coverage because of excess income may still be eligible for SSI-related MA under G2S program, which provides for MA coverage with a monthly deductible. BEM 105, p. 1. The deductible is 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 (April 2017), pp. 1-2; BEM 544 (January 2020), p. 1; RFT 240 (December 2013), p. 1; RFT 200 (April 2017), p. 2. The monthly PIL for a client in Petitioner's position, with an MA fiscal group size of one living in [REDACTED] County, is [REDACTED] per month. RFT 200, p. 2; RFT 240, p. 1. Thus, Petitioner is eligible for MA assistance under the deductible program, with the deductible equal to the amount of the monthly net income, less allowable deductions and the [REDACTED] PIL. BEM 545 (July 2022), pp. 2-3.

The Department provided testimony regarding how it determined Petitioner's monthly deductible, and the SSI-related MA budget showing the calculation of Petitioner's deductible was reviewed on the record. In determining the monthly deductible, net income is reduced by allowable needs deductions, consisting of 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. Petitioner pays health insurance premiums for her Medicare Part B. Therefore, Petitioner's allowable needs deduction for health insurance and remedial services totaled \$174.70. Petitioner's net income of [REDACTED] reduced by \$174.70 in allowable needs deductions and by the [REDACTED] PIL results in a deductible of \$1,195. The resulting deductible amount is less than the deductible amount provided on the May 22, 2024 HCCDN because at that time Petitioner's Medicare Part B premium was being paid by the State of Michigan under a Medicare Savings Program (MSP). At the time of the hearing, Petitioner did not have active MSP coverage, therefore, the Department correctly included Petitioner's Medicare B premiums payments as a deduction. While the Department properly determined Petitioner's eligibility for SSI-related MA with a monthly deductible, it is unclear whether the Department considered Petitioner for the most beneficial MA coverage available to her.

At the hearing, Petitioner's AHR questioned the Department on why Petitioner had not been considered for MA coverage under the Disabled Adult Children (MA DAC) program. MA DAC is also an SSI-related Group 1 MA category. MA DAC is available to a person receiving Disabled Adult Children's (DAC) (also called Childhood Disability Beneficiaries' or CDBs') RSDI benefits under section 202(d) of the Social Security Act if the person:

1. Is age 18 or older; and
2. Received Supplemental Security Income (SSI); and
3. Ceased to be eligible for SSI on or after July 1, 1987, because he became entitled to DAC RSDI benefits under section 202(d) of the Act or an increase in such RSDI benefits; and
4. Currently receiving DAC RSDI benefits under section 202(d) of the Act; and
Note: To receive DAC RSDI a person must have a disability or blindness that began before age 22.
5. Would be eligible for SSI without such RSDI benefits.

BEM 158 (October 2014), p. 1.

The Petitioner's AHR's asserted that Petitioner should be eligible for full Medicaid coverage as a DAC. When assessing MA eligibility, the Department should consider an individual's eligibility for DAC MA before G2S eligibility. BEM 105, p. 5. At the hearing, the Department indicated that it did in fact assess Petitioner's eligibility under DAC. The Department has a designated unit that determines whether a DAC individual is eligible for Medicaid based upon that status. In this case, the MDHHS-DAC unit provided a determination at the request of the local office and found based upon information from the Social Security Administration that the Petitioner was not eligible for Medicaid as a DAC. The DAC unit advised that the Petitioner was not eligible for Medicaid as a DAC because she was receiving RSDI coded by the Social Security Administration based on Petitioner's father's retirement RSDI and not as DAC RSDI. The Department testified that the May 22, 2024 HCCDN only identified the MA programs that the Department determined Petitioner eligible for and did not identify MA DAC due to Petitioner's

ineligibility. Therefore, the Department properly determined that Petitioner was not eligible for MA DAC when she did not meet all requirements to be considered a MA DAC recipient. Petitioner's AHR was advised to contact the Social Security Administration regarding how it has Petitioner coded in its system. Petitioner's AHR may request a DAC review from the Department at any time.

MSP

The Department sent Petitioner a notice on May 22, 2024, informing her that she was not eligible for MSP benefits because her income exceeded the income limits for MSP benefits but also that she was eligible under a different case number. At the hearing, the Department testified that Petitioner was approved for MSP benefits under the Non-Categorically Eligible Michigan Beneficiary (NMB) category.

MSP is an SSI-related Medicaid category where the Department pays for certain Medicare expenses for eligible individuals. BEM 165 (June 2024) p. 1. There are three MSP categories: Qualified Medicare Beneficiaries (QMB); Specified Low-Income Medicare Beneficiaries (SLMB); and Additional Low-Income Beneficiaries (ALMB). BEM 165 (June 2024), 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. BEM 165, pp. 1-2. Income eligibility for MSP benefits exists when net income is within the limits in RFT 242 or 247. The Department is to determine countable income according to the SSI-related MA policies in BEM 500 and 530, except as otherwise explained in BEM 165. RFT 242, pp1-2; BEM 165, pp. 7-8.

The Department testified that based on Petitioner's income, she was not income eligible for MSP benefits under any of the three categories. Effective April 1, 2024, the income limit for ALMB, the category with the highest monthly income limit for Petitioner's group size of one is \$1,714.25, which is 135 percent of the Federal Poverty Level plus the \$20 disregard. RFT 242, pp. 1-3. RFT 242, p. 3. Additionally, the Non-Categorically Eligible Michigan Beneficiary (NMB) category provides MSP benefits for individuals who have excess income or assets. BEM 165, p. 1. The NMB category is only for individuals who are receiving full coverage MA benefits.

At the hearing, the Department testified that the NMB program was approved for Petitioner effective July 1, 2024. NMB coverage pays for 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, p. 2. The Department further testified that on any month where Petitioner meets her deductible and she has full-coverage MA, the NMB coverage would also become active. Based on her net income of [REDACTED] the Department correctly concluded that Petitioner was not eligible for MSP under the QMB, SLMB, and ALMB programs, but is eligible for NMB but only for those months in which she meets the deductible. If Petitioner is later determined approved for MA DAC, she will be eligible for ongoing NMB without having to meet a deductible.

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 that Petitioner was not eligible for MSP under QMB, SLMB, and ALMB due to income, and the Department acted in accordance with Department policy when it determined Petitioner's MA eligibility.

DECISION AND ORDER

Accordingly, the Department's decisions with respect to Petitioner's MA and MSP eligibility is **AFFIRMED**.

LC/ml


L. Alisyn Crawford
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

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Interested Parties

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Via First Class Mail:

Authorized Hearing Rep.

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Petitioner

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