



GRETCHEN WHITMER
GOVERNOR

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

MARLON BROWN
DIRECTOR



Date Mailed: August 23, 2024
MOAHR Docket No.: 24-007728
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 21, 2024. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Shyla Coleman, Eligibility Specialist and Hearings Facilitator.

ISSUE

Did the Department properly determine Petitioner's Medical Assistance (MA) Program eligibility?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On February 13, 2024, after a hearing held on February 7, 2024, a Hearing Decision was issued in Michigan Office of Administrative Hearings and Rules (MOAHR) docket number 24-000141 regarding Petitioner's MA eligibility.
2. In response to the decision, the Department changed Petitioner's MA eligibility so that she was eligible for MA benefits under the Group 2-Aged, Blind, Disabled (G2S) category with a deductible and under the Medicare Savings Program (MSP) Additional Low-Income Beneficiary (ALMB) category.
3. Petitioner receives Retirement Survivors Disability Insurance (RSDI) benefits in the amount of \$ [REDACTED] per month.
4. Petitioner is single, has no dependents, and is not claimed as a dependent.

5. Petitioner does not have any guardianship, conservator, or insurance expenses.
6. Petitioner submitted verification of medical expenses to the Department which were not provided for the hearing.
7. On June 17, 2024, the Department issued a Health Care Coverage Determination Notice (HCCDN) to Petitioner informing her that she was eligible for full coverage MA benefits for May 2024 but noted that she has a deductible of \$1,092.00 for services received on May 1, 2024.
8. Afterward, the Department indicated that there had been an error in including Petitioner's prescription expenses for consideration toward her deductible because Petitioner is not actually responsible for these expenses and instead the expenses are paid by Medicare.
9. On June 28, 2024, the Department received Petitioner's request for hearing disputing the calculation of her deductible as well as whether her medical expenses should be countable toward her deductible.

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 disputes the Department's calculation of her deductible as well as the consideration of her medical expenses toward the deductible.

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 (January 2024), p. 1; BEM 124 (July 2023), p. 1. 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.

SSI-RELATED MA (DISABLED, BLIND OR OVER-65)

Because Petitioner is a Medicare recipient **and** disabled and there was no evidence that Petitioner was the parent or caretaker of a minor child, Petitioner was potentially eligible for MA under an SSI-related category. In determining the SSI-related MA category Petitioner is eligible for, MDHHS must determine Petitioner's MA fiscal group size and net income. As an unmarried individual, Petitioner has fiscal group size for SSI-related MA purposes of one. BEM 211 (October 2023), p. 8.

The AD-Care program, an SSI-related MA category, requires that net group income cannot exceed one hundred percent of the federal poverty level plus \$20.00. BEM 163, pp. 1-2. The 2024 federal poverty level (FPL) for a one-person household was \$15,060 annually or \$1,255.00 per month. <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>. The net income limit is also established by subtracting \$20.00 from the income limits seen in RFT 242, \$1,255.00 for a group size of one effective April 1, 2024. RFT 242 (April 2024), p. 1; BEM 163 (July 2017), p. 2.

Countable income is calculated by adding the amounts of income actually received or reasonably anticipated within the month. BEM 530 (April 2020), p. 2. RSDI is considered countable income. BEM 503 (April 2024), pp. 29-30. Petitioner has total gross RSDI income of \$ [REDACTED]. Next, \$20.00 is subtracted for the general exclusion and Petitioner's Net Income is \$ [REDACTED]. BEM 541 (January 2024), p. 3. No evidence was presented of any expenses for child support, work-related expenses, nor guardianship or conservator expenses. BEM 541, pp. 1-7. Therefore, Petitioner's Net Income is greater than the net income limit. Petitioner is not eligible for the full coverage AD-Care program.

Since Petitioner has excess income for eligibility under the AD-Care program, the full coverage SSI-related MA program, an evaluation of Petitioner's eligibility for MA coverage under the Group 2-Aged, Blind, Disabled (G2S) follows. Group 2 provides MA coverage with a deductible. BEM 105, p. 1. The deductible is the amount that the client's net income (less any allowable deductions) exceeds the applicable Group 2 MA protected income level (PIL). PIL is a set allowance for non-medical need items such as shelter, food, and incidental expenses. BEM 544 (January 2020), p. 1. It is based on the client's MA fiscal group size and the county in which the client resides. *Id.* Petitioner resides in Wayne County and has a group size of one; therefore, he is in shelter area VI, and his PIL is \$375.00. RFT 200 (April 2017), p. 3; RFT 240 (December 2013), p. 1. Thus, if Petitioner's monthly net income (less allowable needs deductions) is in excess of \$375.00, Petitioner is eligible for MA assistance under the G2S program with a deductible equal to the amount of income remaining after the appropriate and allowed deductions which is greater than \$375.00.

As discussed above, Petitioner's net income was \$ [REDACTED]. In calculating the deductible, allowances are made for health insurance premiums and remedial services. BEM 544, pp. 1-2. Petitioner is eligible for MSP-ALMB and therefore is not responsible for her Medicare Part B premium. No evidence was presented of other insurance premiums. At the hearing, remedial services were discussed but the Department has not received verification of the remedial services received by Petitioner or their cost. Remedial services are services which produce the maximum reduction of physical and mental limitations and restore an individual to their best possible functioning level. BEM 544, p. 2. Remedial care services include basic self-care and rehabilitation training which teach and reinforce dressing, grooming, eating, bathing, toileting, and following simple instructions. BEM 544, p. 2. Remedial services do not include personal care services as defined in BEM 545. Therefore, the PIL is subtracted to reach a deductible of \$1,268.00 (rounded to the nearest dollar). The Department has not met its burden of proof in establishing that it properly calculated Petitioner's G2S deductible for May 2024, ongoing.

Petitioner also disputes that the Department should consider her medical expenses for May 2024, ongoing toward her MA deductible. When a client establishes sufficient medical expenses through old bills, personal care services, hospitalization, or long-term care. BEM 545, p. 1. A medical expense must be incurred for a medical service. BEM 545, p. 16. The actual charges minus third-party resource payments, such as other forms of insurance, count toward the allowable expenses. *Id.* Medical services include:

- Cost of a diabetes patient education program.
- Service animal (such as a guide dog) or service animal maintenance. In Michigan the animal must be fully trained and cannot be for emotional support, companionship, therapy for others, or crime deterrence.
- Personal care services in home, adult foster care, or HA.
- Transportation for any medical reason.
- Medical service(s) provided by any of the following:
 - Anesthetist.
 - Certified nurse-midwife.
 - Chiropractor.
 - Christian Science practitioner, nurse or sanatorium.
 - Clubhouse psychosocial rehabilitation programs.
 - Dentist.
 - Family planning clinic.
 - Hearing aid dealer.
 - Hearing and speech center.
 - Home health agency.
 - Hospice.
 - Hospital.
 - Laboratory.
 - Long-term care facility.
 - Maternal support services provider.
 - Medical clinic.
 - Medical supplier.
 - Mental health clinic.
 - Nurse.
 - Occupational therapist.
 - Ophthalmologist.
 - Optometrist.
 - Oral surgeon.
 - Orthodontist.
 - Pharmacist.
 - Physical therapist.
 - Physician (MD or DO).
 - Podiatrist.
 - Psychiatric hospital.
 - Psychiatrist.

- Psychologist.
- Radiologist.
- Speech therapist.
- Substance abuse treatment services provider.
- Visiting nurse.

Id. In this case, the Department testified and Petitioner did not dispute that the medical expenses she had submitted to the Department were covered by her Medicare insurance and therefore she was not responsible for these costs. Because Petitioner was not responsible for the costs, these costs cannot be counted toward her deductible. Any cost for which Petitioner has the responsibility to pay can be counted toward her deductible. Any expense (or combination of expenses) which exceeds the monthly deductible will be paid through the G2S MA coverage for the amount which exceeds Petitioner's deductible. The deductible must be met each month to attain MA coverage.

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 calculated Petitioner's MA deductible effective May 2024, ongoing.

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. Recalculate Petitioner's deductible effective May 2024, ongoing;
2. If otherwise eligible, issue supplements to Petitioner for benefits not previously received; and,
3. Notify Petitioner in writing of its decision.

AM/cc



Amanda M. T. Marler
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 :

Interested Parties

MDHHS-Wayne-18-Hearings
BSC4-HearingDecisions
EQADHearings
M. Schaefer
MOAHR

Via-First Class Mail :

Petitioner

[REDACTED]
MI [REDACTED]