



GRETCHEN WHITMER
GOVERNOR

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

MARLON BROWN
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: September 19, 2024
MOAHR Docket No.: 24-007756
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 August 26, 2024, from Detroit, Michigan. Petitioner appeared for the hearing and was represented by his Authorized Hearing Representative (AHR) [REDACTED]. The Department of Health and Human Services (Department) was represented by Shyla Coleman, Hearing Facilitator.

ISSUE

Did the Department properly determine Petitioner'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 was previously a recipient of MA under the Disabled Adult Child (DAC) category. For an unexplained reason, Petitioner's MA coverage was transferred to the Ad-Care category effective January 1, 2020.
2. Petitioner was also an ongoing recipient of Food Assistance Program (FAP) benefits and in connection with a redetermination, his eligibility for FAP was reviewed.
3. The Department asserted that Petitioner's FAP redetermination triggered a review of Petitioner's MA eligibility.
4. The Department determined that Petitioner's income exceeded the limit for the full coverage Ad-Care category and that effective July 1, 2024, Petitioner was eligible

for MA under the Group 2 Aged, Blind, Disabled (G2S) subject to a monthly deductible of \$906. On or around June 14, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice advising him that effective July 1, 2024, his MA eligibility was subject to a monthly deductible. (Exhibit A, pp. 11-14)

5. On or around July 2, 2024, Petitioner requested a hearing disputing the Department's action with respect to the MA program.

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 disputed the Department's determination that he was no longer eligible for full coverage MA under the Ad-Care category and that he was now eligible for MA under the G2S category with a deductible of \$906. Petitioner's AHR asserted that he is considered a disabled adult child.

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 (June 2020), p. 1; BEM 124 (July 2023), p. 1. DAC MA is an SSI-related Group 1 MA category and is available to a person receiving DAC (also called Childhood Disability Beneficiaries' or CDBs') RSDI benefits under section 202(d) of the Social Security Act **if** he or she meets **all** of the following conditions:

- is age 18 or older; and
- received SSI; and
- 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

- is currently receiving DAC RSDI benefits under section 202(d) of the Act (based on having a disability or blindness that began before age 22); and
- would be eligible for SSI without such RSDI benefits.

An individual may be receiving DAC RSDI benefits if one of the following descriptions applies:

- he has been identified as a DAC by central office or an SSI letter and the social security claim number suffix contains the letter C, which may be followed by another letter or number (CA, CB, C1, etc.).
- he is more than 19 years 2 months old and his social security claim number suffix contains the letter C, which may be followed by another letter or number (CA, CB, C1, etc.).
- he is age 18 or older, **not** a full-time student in elementary or secondary school and his social security claim number contains the letter C, which may be followed by another letter or number (CA, CB, C1, etc.).

BEM 158 (October 2014), pp. 1-3. 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.

Petitioner is potentially 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.

At the hearing, the Department representative testified that after updating Petitioner's MA eligibility in connection with the FAP redetermination, it determined that Petitioner was no longer income eligible for Group 1 MA without a deductible under the Ad-Care category and that Petitioner was only eligible for MA under the G2S category with a monthly deductible. The G2S category is an SSI-related Group 2 MA category, the eligibility of which must be considered only when eligibility does not exist under BEM 155 through 164, 170, or 171. BEM 166 (April 2017). The Department policy which references DAC MA eligibility is found at BEM 158.

The Department representative testified that Petitioner was previously approved for MA as a DAC and that effective January 1, 2020, his MA coverage transferred to the Ad-Care category. The reason for the termination of Petitioner's MA DAC benefits was unknown and unexplained by the Department. The Department representative testified that after receiving Petitioner's request for hearing, an email was sent to the DAC determination unit to review Petitioner's eligibility for MA as a DAC, as the representative could not explain why Petitioner was not eligible for MA benefits as a DAC. The Department testified that a Memo was issued on July 17, 2024, indicating

that Petitioner's eligibility for DAC MA was reviewed and he was ineligible because his disability onset was after age 22 and his SSI ended for reasons other than starting or increasing DAC RSDI. (Exhibit B). The Department representative testified that an email was sent to the DAC unit on July 23, 2024, to follow up on the information contained in the Memo; however, as of the hearing date there had been no response. The Department did not present any additional evidence regarding Petitioner's eligibility for DAC MA benefits and did not present any documentary evidence in support of the information contained in the Memo. Additionally, Petitioner's AHR was unaware of the Memo prior to the hearing and testified that she potentially had documentation from the Social Security Administration verifying Petitioner's status as a DAC.

Upon review, it was established that Petitioner's MA eligibility under the DAC category was not considered prior to the issuance of the June 14, 2024, Health Care Coverage Determination Notice, approving Petitioner for MA under the G2S. As referenced above, Department policy provides that persons may qualify under more than one MA category and federal law gives persons the right to the most beneficial category which is considered the category that results in eligibility, the least amount of excess income, or the lowest cost share. BEM 105, p.2. The Department must consider all of the MA category options in order for the client's right of choice to be meaningful. BEM 105, p.2.

Therefore, because the Department did not consider Petitioner's eligibility for DAC MA prior to approving him for MA under the G2S, and, because the Department failed to present sufficient evidence that Petitioner is ineligible for MA under the DAC, the Department failed to properly process Petitioner's MA benefits and determine his eligibility for all MA categories.

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 processed Petitioner's MA benefits.

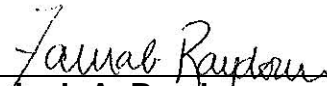
DECISION AND ORDER

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. Redetermine Petitioner's MA eligibility under the most beneficial category, and consider his eligibility for DAC MA for July 1, 2024, ongoing;
2. If eligible, provide MA coverage to Petitioner under the most beneficial category, that he was entitled to receive but did not from July 1, 2024, ongoing; and
3. Notify Petitioner in writing of its decision.

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

Jeanenne Broadnax
Wayne-Taylor-DHHS
25637 Ecorse Rd.
Taylor, MI 48180

MDHHS-Wayne-18-Hearings@michigan.gov

Interested Parties

BSC4
M Schaefer
EQAD
MOAHR

Via First Class Mail:

Authorized Hearing Rep.

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED], MI [REDACTED]