



STATE OF MICHIGAN

GRETCHEN WHITMER
GOVERNOR

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

MARLON BROWN
DIRECTOR



Date Mailed: September 9, 2024

MOAHR Docket No.: 24-008593

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 September 4, 2024. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Lori Turner, Eligibility Specialist. Translation services were provided by Esraa Farag.

ISSUE

Did the Department properly determine Petitioner's Medical Assistance (MA) Program eligibility effective April 2024, ongoing?

If so, did the Department properly apply medical expenses toward Petitioner's Group 2-Aged, Blind, Disabled (G2S) deductible for June, July, and August of 2024?

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 April 25, 2024, the Department issued a Health Care Coverage Determination Notice (HCCDN) to Petitioner advising him that he was eligible for Plan First (PF) MA benefits from July 2023, ongoing; Medicare Savings Program (MSP)-Non-Categorically Eligible Michigan Beneficiaries (NMB) effective June 2024, ongoing; and MA with a deductible which changed between November 2023 and April 2024 but which is most relevant to this case for the period April 2024, ongoing in the amount of \$1,347.00.
2. Petitioner receives \$ [REDACTED] in Retirement Survivors Disability Insurance (RSDI) benefits per month and is eligible for Medicare.

3. On July 22, 2024, the Department received Petitioner's request for hearing disputing the deductible and application of his medical expenses toward his deductible.
4. Petitioner submitted three prescription medical expenses to the Department including one dated June 26, 2024 for \$2,500.00, another dated for the same date for the same amount from the same pharmacy for the same medication, and another dated July 29, 2024 for \$1,626.82.

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 his deductible as well as the consideration of his 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** age 81 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. No evidence was presented that Petitioner is married; therefore, Petitioner has a 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 [REDACTED] 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-NMB and therefore is not responsible for his Medicare Part B premium. No evidence was presented of remedial services, but the Department budgeted \$486.70 for insurance premiums, which includes the Medicare Part B premium of \$174.70. Because the Department did not explain why the part B premium was included despite NMB eligibility, the Department has not shown that the deductible was properly calculated. It is notable that this may mean a higher deductible for Petitioner than was previously calculated.

Petitioner also disputes that the Department did not properly consider his medical expenses for June through August of 2024 toward his MA deductible. 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 to be considered in the budget. 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. Petitioner submitted three medical expenses to the Department. Two of the three medical expenses were identical. An expense incurred on one date for one item can only be used in one month and not in any other months. If an expense is incurred monthly, verification of the expense is required in each month showing the date on which it was incurred in the new month. Therefore, because Petitioner submitted two verifications for a prescription which he incurred on June 26, 2024, that expense can only apply toward the deductible in the month of June, but not in any other month. Petitioner also submitted a second expense dated July 29, 2024, this expense can be attributed to the July 2024 deductible. Because Petitioner has not submitted any expenses incurred in the month of August 2024 as of the hearing date, he is still responsible for his deductible as part of the G2S category. Although the Department testified that Petitioner received full coverage for June and July 2024, the Department did not identify the period for which Petitioner received the full coverage in each month. In addition, the Department has not shown that Petitioner's deductible was properly calculated. Therefore, the Department has not met its burden of proof.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated Petitioner's deductible or in applying Petitioner's medical expenses toward his deductible.

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 G2S deductible effective April 2024, ongoing;
2. Reprocess Petitioner's medical expenses for June and July 2024;
3. If otherwise eligible, issue supplements to Petitioner or on his behalf for benefits not previously received.

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-17-hearings
BSC4-HearingDecisions
EQADHearings
M. Schaefer
MOAHR

Via-First Class Mail :

Petitioner

[REDACTED]
MI [REDACTED]