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GOVERNOR

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

Date Mailed: December 27, 2024
MOAHR Docket No.: 24-011310
Agency No.: ██████████
Petitioner: ██████ ██████

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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, an in-person hearing was held on December 18, 2024 from Inkster, Michigan. Petitioner appeared and was represented. ██████ ██████ testified and participated as Petitioner's authorized hearing representative (AHR). The Michigan Department of Health and Human Services (MDHHS) was represented by Marcella Towns, hearing coordinator.

ISSUES

The first issue is whether MDHHS properly determined Petitioner's Medicaid eligibility.

The second issue is whether MDHHS properly terminated Petitioner's Medicare Savings Program (MSP) 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. As of July 2024, Petitioner was an ongoing recipient of Medicaid and Medicare Savings Program (MSP) benefits.
2. On July 5, 2024, MDHHS mailed Petitioner's redetermination documents to Petitioner's authorized representative (AR).
3. As of September 2024, Petitioner was unmarried, disabled, at least 21 years old, a Medicare recipient, not a caretaker to minor children, and not pregnant.

4. As of September 2024, Petitioner received \$1,512 in gross monthly Retirement, Survivors, Disability Insurance (RSDI).
5. On September 19, 2024, MDHHS sent Petitioner notice of MSP termination beginning October 2024 due to Petitioner failing to return redetermination documents.
6. On September 30, 2024, MDHHS received Petitioner's application for MA and MSP benefits.
7. On October 2, 2024, Petitioner requested a hearing to dispute Medicaid and MSP eligibility. Petitioner also requested a hearing to dispute FAP eligibility.
8. On October 4, 2024, MDHHS sent Petitioner notice of Medicaid eligibility beginning October 2024 subject to a \$1,117 monthly deductible.
9. As of December 18, 2024, MDHHS and not yet processed Petitioner's MSP eligibility beginning October 2024.
10. On December 18, 2024, Petitioner withdrew his dispute concerning FAP benefits.

CONCLUSIONS OF LAW

The FAP (formerly known as the Food Stamp program) is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. MDHHS administers the FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-119b, and Mich Admin Code, R 400.3001-.3011. FAP policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

The 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. MDHHS administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MA policies are contained in the BAM, BEM, and RFT.

Petitioner requested a hearing, in part, to dispute FAP eligibility. Exhibit A, pp. 3-5. During the hearing, Petitioner testified he accepted the actions by MDHHS concerning FAP benefits and no longer needed a hearing to dispute FAP eligibility. MDHHS had no objection to Petitioner's partial hearing request withdrawal. Concerning Petitioner's dispute over FAP benefits, Petitioner's hearing request will be dismissed.

Petitioner also requested a hearing to dispute Medicaid eligibility. Exhibit A, pp. 3-5. As of the hearing request date, Petitioner's Medicaid eligibility stopped beginning October 2024 after failing to timely return redetermination documents. Arguably, the analysis

could end with a dismissal of Petitioner's hearing request because MDHHS has since processed Medicaid eligibility beginning October 2024; however, Petitioner disputes the outcome of the reprocessing. If Petitioner's hearing request were dismissed without examining the reprocessing, then Petitioner would have to request a second administrative hearing to dispute the outcome of the processing. In the interest of minimizing bureaucracy, the analysis will proceed to determine if MDHHS properly reprocessed Petitioner's Medicaid eligibility. A Health Care Coverage Determination Notice dated October 4, 2024, stated that Petitioner was eligible for Medicaid subject to a monthly deductible of \$1,117 beginning October 2024. Exhibit A, pp. 46-50.

Medicaid is also known as MA. BEM 105 (October 2023) p. 1. The MA program includes several sub-programs or categories. *Id.* 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.* Medicaid eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, MICHild and Healthy Michigan Plan is based on Modified Adjusted Gross Income (MAGI) methodology.¹ *Id.*

Persons may qualify under more than one MA category. *Id.*, p. 2. 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.*

MA categories are also split into categories of Group 1 and Group 2. *Id.*, p. 1. For Group 1, a group's net income must be at or below a certain income level for eligibility. *Id.* Group 2 categories are considered a limited benefit (not limited coverage) because a deductible is possible. *Id.*

As of October 2024, Petitioner was over 21 years of age, disabled, a Medicare recipient, not pregnant, and not a caretaker to a minor child. Under the circumstances, Petitioner is ineligible for all MAGI-related categories. As a disabled individual, Petitioner is potentially eligible to receive MA under the SSI-related Group 1 category of Aged/Disability-Care (AD-Care). Eligibility for a Medicaid deductible implies income ineligibility for a Group 1 Medicaid category. BEM 163 outlines the procedures for determining income eligibility under AD-Care.

At all relevant times, Petitioner was unmarried. For purposes of AD-Care, Petitioner's group size is one person. BEM 211 (October 2023) p. 8.

For AD-Care, MDHHS is to determine countable income according to SSI-related MA policies in BEM 500, 501, 502, 503, 504 and 530, except for RSDI.² BEM 163 (July 2017) p. 2. For RSDI, MDHHS is to count gross RSDI from the benefit month except from January through March in which gross RSDI from the most recent December is

¹ Eligibility factors for all MA categories are found in the Bridges Eligibility Manual from BEM 105 through BEM 174.

counted. *Id.* For AD-Care, MDHHS is to apply the deductions in BEM 540 (for children) or 541 (for adults). *Id.*

It was not disputed that Petitioner's gross monthly RSDI was \$1,512. For SSI-Related MA categories, a \$20 disregard is given for unearned income. BEM 541 (July 2019) p. 3. MDHHS gives AD-Care budget credits for employment income, guardianship expenses, and/or conservator expenses. Cost of living adjustments (COLA) are applicable for the benefit months of January through March only. BEM 503 (April 2024) p. 29 Petitioner did not allege any relevant budget expenses or credits. Only the \$20 unearned income disregard was applicable resulting in countable monthly income of \$1,492.

Net income for AD-Care cannot exceed 100% of the federal poverty level BEM 163 (July 2017) p. 2. In 2024, the annual federal poverty level for a 1-person group residing in Michigan is \$15,060.³ Dividing the annual FPL by 12 results in a monthly income limit of \$1,255. The same income limit is found in policy.⁴ RFT 242 (April 2024) p. 1. Petitioner's countable income exceeds the AD-Care income limit. Given the evidence, MDHHS properly determined Petitioner to be ineligible for MA under any Group 1 MA category.

Though Petitioner is ineligible for MA benefits under AD-Care or any other Group 1 category offering full MA coverage, Petitioner may still receive MA under a Group 2 category. For Group 2 categories, eligibility is possible even when net income exceeds the income limit for a Group 1 category; this is possible because incurred medical expenses are used when determining eligibility. BEM 105 (January 2023) p. 1. Group 2 categories are considered a limited MA benefit because a deductible is possible. *Id.*

Deductible is a process which allows a client with excess income to become eligible for Group 2 MA if sufficient allowable medical expenses are incurred. BEM 545 (July 2022) p. 10. Each calendar month is a separate deductible period. *Id.* The fiscal group's monthly excess income is called the deductible amount. *Id.* Meeting a deductible means reporting and verifying allowable medical expenses that equal or exceed the deductible amount for the calendar month. *Id.*

For aged/disabled persons, G2S is the applicable Group 2 MA category. G2S is an SSI-Related MA category. BEM 166 (April 2017) p. 1.

As an SSI-related MA category, Petitioner's group's countable income of \$1,492 is unchanged for G2S. In addition to AD-Care disregards, the G2S budget factors ongoing medical expenses (which are applied toward a deductible), insurance premiums, and remedial services. Petitioner's testimony acknowledged not reporting applicable expenses.

³ <https://www.healthcare.gov/glossary/federal-poverty-level-fpl/>

⁴ MDHHS policy lists an income limit of \$1,275 while noting the \$20 disregard is factored into the limit.

A client's deductible is calculated by subtracting the protected income level (PIL) from the client's net income. A PIL is a standard allowance for non-medical need items such as shelter, food, and incidental expenses. The PIL for Petitioner's shelter area and group size is \$375. RFT 240 (December 2013) p. 1.

Subtracting the PIL of \$375 from Petitioner's group's countable income of \$1,492 results in a monthly deductible of \$1,117: the same deductible calculated by MDHHS. Exhibit A, p. 54. Given the evidence, MDHHS properly determined Petitioner's Medicaid eligibility.

Petitioner lastly requested a hearing to dispute the termination of MSP benefits. Exhibit A, pp. 3-5. A Health Care Coverage Determination Notice dated September 19, 2024, stated that Petitioner was ineligible for MSP beginning October 2024 due to Petitioner's alleged failure to return redetermination documents. Exhibit A, pp. 11-13.

MSP is an SSI-related Medicaid category. BEM 165 (July 2024) p. 1. One of four different subprograms are available under MSP. Qualified Medicare Beneficiaries (QMB) coverage pays for a client's Medicare premiums, coinsurances, and deductibles. *Id.*, p. 2. Specified Low Income Beneficiaries (SLMB) coverage pays for a client's Medicare Part B premium. *Id.* Additional Low-Income Beneficiaries (ALMB) coverage pays for a client's Medicare Part B premium if MDHHS funding is available. *Id.* Non-Categorically Eligible Michigan Beneficiaries (NMB) cover a client's premium for full-coverage Medicaid beneficiaries not otherwise eligible for MSP. *Id.*

For all programs, MDHHS must periodically redetermine or renew an individual's eligibility for active programs. BAM 210 (January 2024) p. 1. The process includes a thorough review of all eligibility factors.⁵ *Id.* For all programs, the MDHHS mails a redetermination packet to the client three days prior to the negative action cut-off date in the month before the redetermination is due. *Id.*, p. 8. A Redetermination form is considered complete when all sections are completed. *Id.* p. 11. MDHHS sends timely notice of closure if documents are not timely returned. *Id.*, p. 17. MA benefits stop at the end of the benefit period unless a renewal is completed, and a new benefit period is certified. *Id.*, p. 4. Acceptable redetermination forms may include a benefit application. *Id.*, p. 8.

It was not disputed that MDHHS mailed a Redetermination form on July 5, 2024. Exhibit A, pp. 27-35. Petitioner did not receive the redetermination because it was mailed to Petitioner's AR. The analysis need not determine if mailing redetermination documents to an AR, rather than the client, is a proper mailing. As it happened, Petitioner submitted to MDHHS an application for Medicaid and MSP on September 30, 2024. Because Petitioner submitted acceptable redetermination documents to MDHHS during the active benefit period, Petitioner's MSP benefits should not have closed due to a failure to timely return redetermination documents.

⁵ For Medicaid, an annual review of all eligibility programs is also referred to as a "renewal". BAM 210 (October 2022) p. 1.

MDHHS's Hearing Summary dated October 14, 2024, stated that it was still processing Petitioner's MSP eligibility more than two months after Petitioner's MSP benefit period ended. MDHHS also stated that reprocessing MSP eligibility awaited Petitioner's verification of assets. During the hearing, MDHHS could not state why Petitioner's MSP eligibility remained unprocessed. The remedy for an inexplicable failure to process is an order to process; accordingly, MDHHS will be ordered to process Petitioner's MSP eligibility beginning October 2024.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner partially withdrew the hearing request dated October 4, 2024. Concerning FAP eligibility, Petitioner's hearing request dated October 4, 2024 is **DISMISSED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly determined Petitioner to be eligible for Medicaid subject to a \$1,117 deductible beginning October 2024. Concerning Medicaid, the actions of MDHHS are **AFFIRMED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly failed to process Petitioner's MSP eligibility. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Redetermine Petitioner's MSP eligibility beginning October 2024 subject to the finding that Petitioner submitted satisfactory redetermination documentation on September 30, 2024; and
- (2) Issue notice and supplements, if any, in accordance with policy.

Concerning Petitioner's MSP eligibility, the actions taken by MDHHS are **REVERSED**.

CG/nr



Christian Gardocki

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 :

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