



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]
Date Mailed: August 22, 2019
MOAHR Docket No.: 19-007057
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 19, 2019, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by [REDACTED], Eligibility Specialist and Hearings Coordinator.

ISSUE

Did the Department properly place Petitioner in the Medical Assistance (MA) Program Group 2 Aged, Blind, Disabled (G2S) category?

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 has one minor daughter who lives in the home with him, is claimed as a dependent, and is part of his Food Assistance Program (FAP) group.
2. Petitioner is not married.
3. Petitioner receives Retirement Survivors Disability Insurance (RSDI) benefits of [REDACTED] per month.
4. Petitioner's daughter receives [REDACTED] per month as a Supplemental Security Income (SSI) benefit.
5. On April 16, 2019, the Department issued a Health Care Coverage Determination Notice (HCCDN) to Petitioner informing him that he was no longer eligible for full coverage MA benefits and was eligible for MA with a deductible of [REDACTED] per month as of May 1, 2019.

6. On July 2, 2019, the Department received Petitioner's hearing request disputing the Department's determination of MA eligibility for the G2S deductible category as well as the amount of the 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.

Petitioner disputed his MA eligibility because the Department placed him in the G2S MA category with a deductible of \$547.00 per month.

Medicaid is available (i) under Supplemental Security Income (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, and (iii) to individuals who meet the eligibility criteria for Healthy Michigan Plan (HMP) coverage. BEM 105 (April 2017), p. 1. HMP provides MA coverage to individuals who (i) are 19 to 64 years of age; (ii) have income at or below 133% of the federal poverty level (FPL) under the Modified Adjusted Gross Income (MAGI) methodology; (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 (January 2019) p. 1; MPM, Healthy Michigan Plan, § 1.1.

No evidence was presented that Petitioner is under age 19, over age 65, or pregnant. Petitioner is a Medicare recipient. Therefore, Petitioner is not eligible for HMP nor any programs that have these eligibility requirements. However, Petitioner is a parent and caretaker of his minor child that lives in his home who he claims as a dependent. Petitioner is also disabled as noted by his receipt of RSDI benefits. Therefore, Petitioner is potentially eligibility for MA categories involving these criteria.

Medicaid eligibility for children under 19 and parents or caretakers of children is based on Modified Adjusted Gross Income (MAGI) methodology. BEM 105, p. 1. Initially the Department disputed that Petitioner's daughter should be considered in determining

Petitioner's MA eligibility. However, at the hearing, the Department conceded that Petitioner's daughter appears on his FAP case, is listed as a dependent, and lives in the home. Therefore, the Department should have considered Petitioner's eligibility as a caretaker in addition to his disability status with a dependent child in the home.

Persons may qualify under more than one MA category. BEM 105, 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.*

As a caretaker, Petitioner is potentially eligible for MA through the Low-Income-Family (LIF) category. Adults with a dependent child and income under 54% of the Federal Poverty Level will be considered LIF eligible. BEM 110 (April 2018), p. 1. The 2019 FPL for a two-person household is \$16,910.00. <https://aspe.hhs.gov/poverty-guidelines>. The corresponding LIF income limit is \$9,131.40. An individual's group size for MAGI-related purposes requires consideration of the client's tax filing status. The household for a tax filer, who is not claimed as a tax dependent consists of: (i) the individual; (ii) the individual's spouse; and (iii) the individual's tax dependents. BEM 211 (January 2016), pp. 1-2. In this case, Petitioner has one dependent child. Therefore, in determining Petitioner's MA status, the Department improperly considered Petitioner as having a group size of one instead of two.

In order to determine income in accordance with MAGI rules, a client's adjusted gross income (AGI) is added to any tax-exempt foreign income, tax-exempt Social Security benefits, and tax-exempt interest. It is calculated by taking the "federal taxable wages" for each income earner in the household as shown on the paystub or, if not shown on the paystub, by using gross income before taxes reduced by any money taken out for health coverage, child care, or retirement savings. Effective October 1, 2018, all RSDI income is countable for tax-filers and adults not claimed as dependents. BEM 503 (October 2018), p. 30. A child/tax-dependent RSDI recipient has countable RSDI only if the child or tax-dependent is required to file taxes. BEM 503, p. 30. Since Petitioner received \$1,108.00 per month as his RSDI benefit and because SSI benefits are non-countable income sources, Petitioner's annual income for MAGI purposes is [REDACTED] MREM §7.2. Petitioner's annual household income exceeds the LIF income limit.

Petitioner is disabled, so he is potentially eligible for the Ad-Care MA category. The Ad-Care program, an SSI-related MA category, requires that net group income cannot exceed one hundred percent of the federal poverty level. BEM 163, pp. 1-2. Group composition rules for SSI-related MA categories requires for all programs except L/H, waivers, and Freedom to Work, that the group is composed of the adult applicant and their spouse. BEM 211 (February 2019), p. 8. The 2019 federal poverty level (FPL) for a one-person household is \$12,490.00. See <https://aspe.hhs.gov/poverty-guidelines>. Pursuant to policy, the net income limit is established by subtracting \$20.00 from the amount shown in RFT 242 at \$1,061.00 for a group size of one, effective April 1, 2019. BEM 163, p. 2;

RFT 242 (April 2019), p. 1. In other words, the net income limit is \$1,041.00. Countable income is calculated by adding the amounts of income actually received or available within the past month. BEM 530 (July 2017), p. 2. In MA cases, the countable RSDI benefit is the gross amount for the previous December when the month being tested is January, February, or March. BEM 503 (April 2019), p. 29. For all other months, countable RSDI is the gross amount for the month being tested. *Id.* Therefore, for consideration of MA benefits, Petitioner's income is [REDACTED]. The Department then properly applied the [REDACTED] general exclusion. BEM 541 (January 2019), p. 3. Therefore, Petitioner's net income is [REDACTED], which is greater than the net income limit of [REDACTED] and the federal poverty limit. Petitioner is not eligible for the full coverage Ad-Care category.

Since Petitioner has excess income for eligibility under the Ad-Care program, the full coverage SSI-related MA program nor is he eligible for LIF, an evaluation of Petitioner's eligibility for MA coverage under the Group 2 programs follows below. Group 2 provides MA coverage with a deductible. BEM 105, p. 1. Clients with a deductible may receive Medicaid if sufficient allowable medical expenses are incurred. BEM 105, p. 1; BEM 545 (October 2018), p. 1. Each calendar month is a separate deductible period. BEM 545, p. 11. 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.* Petitioner is potentially eligible for a lesser deductible through the Group 2 Caretaker (G2C) category than he received through the G2S calculation done by the Department. However, because of the Department's initial dispute as to his daughter's status in the home, the Department failed to evaluate Petitioner's G2C deductible. G2C generally offers significantly lower deductibles than G2S. Thus, the Department erred in failing to evaluate Petitioner's G2C eligibility.

Income eligibility for G2C exists when net income does not exceed the Group 2 needs in BEM 544. BEM 135 (October 2015), p. 2. The Department applies the MA policies in BEM 500, 530 and 536 to determine net income. *Id.*

Since the Department did not evaluate the G2C deductible and did not present a budget for the G2C deductible program, the Department has not met its burden of proof that it properly determined Petitioner's MA eligibility.

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 determined Petitioner's MA eligibility.

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 effective May 1, 2019;
2. If Petitioner is otherwise eligible, issue supplements to Petitioner or on his behalf for benefits not previously received; and,
3. Notify Petitioner in writing of its decision.

AM/tm



Amanda M. T. Marler
Administrative Law Judge
for Robert Gordon, Director
Department of Health and Human Services

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

DHHS

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Petitioner

[REDACTED]
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CC:

[REDACTED]
[REDACTED]