



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]

Date Mailed: March 5, 2021
MOAHR Docket No.: 20-007522
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 March 1, 2021. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Michelle Collins, Eligibility Specialist and Hearings Coordinator.

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 October 20, 2020, the Department issued a Health Care Coverage Determination Notice (HCCDN) to Petitioner informing him that effective December 1, 2020 he was eligible for MA benefits with a deductible of \$804.00 per month.
2. Petitioner is a recipient of Retirement Survivors Disability Insurance (RSDI) benefits in the amount of \$1,262.60 per month.
3. Petitioner's wife and child both receive RSDI benefits in the amount of \$315.00 per month.
4. Petitioner is a Medicare recipient, and the Department pays his Medicare Part B premium.

5. On November 24, 2020, the Department received Petitioner's request for hearing disputing the Department's determination of MA eligibility effective December 1, 2020.

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 requested a hearing to dispute the Department's determination of MA eligibility. MA is available (i) to individuals who are aged (65 or older), blind or disabled under Supplemental Security Income (SSI)-related categories, (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 (January 2020), 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 (June 2020), p. 1; MPM, Healthy Michigan Plan, § 1.1.

Petitioner is not eligible for HMP because he is a Medicare recipient. Therefore, other types of MA are evaluated below.

Previously, Petitioner had been enrolled in the Ad-Care program. 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. Petitioner has a group size of two for SSI-related MA purposes because he is married. BEM 211 (July 2019), p. 8. The 2020 federal poverty level for a two-person household was \$17,240.00 or \$1,436.67 per month. <https://aspe.hhs.gov/2020-poverty-guidelines>. For RSDI recipients, there is a \$20.00 disregard. RFT 242 shows that the net income limit is \$1,457.00 for a group size of two effective April 1, 2020. RFT 242 (April 2019), p. 1. After consideration of the \$20.00 general exclusion, Petitioner's group's income is \$1,557.00. BEM 541 (January 2020), p.

3. No evidence was submitted regarding any guardianship or conservatorship expenses. Therefore, Petitioner's group net income is \$1,577.00, which is greater than the net income limit. He is not eligible for the full coverage under the Ad-Care category.

Petitioner had one minor child in the home as of the application date, therefore, Petitioner was potentially eligible for MA under the Low-Income Family (LIF) category. BEM 110 (April 2018), p. 1. To be eligible, adults with a dependent child must have income under 54% of the federal poverty level (FPL). *Id.* LIF is a MAGI MA category; therefore, Petitioner, his wife, and child are considered to be part of his MAGI MA group. BEM 110, p. 1; BEM 211, p. 2. The 2020 FPL for a three-person household is \$21,720.00. See <https://aspe.hhs.gov/2020-poverty-guidelines>. The corresponding LIF income limit is \$11,728.80. Therefore, to be income eligible for LIF coverage, Client's group's income must be less than \$11,728.80 annually or \$977.40 per month. Since Petitioner's monthly income alone is more than \$1,200.00, Petitioner is not eligible for LIF.

Client may still receive Medicaid subject to a monthly deductible through a Group 2 Medicaid category. Clients with a deductible may receive Medicaid if sufficient allowable medical expenses are incurred. BEM 105, p. 1; BEM 545 (July 2019), 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.* Client is potentially eligible for a deductible MA program through Group 2- Aged Blind Disabled (G2S) or Group 2- Caretaker (G2C) categories because he is an RSDI recipient and is responsible for the care of a dependent child. G2C generally offers significantly lower deductibles than G2S.

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.*

The G2C net income calculation starts with determining Petitioner's pro-rated income. This is calculated by subtracting a \$90 standard work expense from any earned income, a deduction for \$30 plus 1/3 of the remaining earned income if the group member received Family Independence Program (FIP) or Low-Income Family (LIF) MA benefits in one of the last four months, subtracting any dependent care expenses arising from costs while working, and child support. BEM 500 (July 2020); BEM 536 (July 2019), p. 1-3. Petitioner has no earned income and is not eligible for the standard work expense deduction. No evidence was presented that Petitioner has received FIP or LIF benefits in the last four months or that he has any dependent care or child support expenses. Next, any unearned income and child support income is added to the new earned income total to achieve the total net income. BEM 536, p. 3. Petitioner receives \$1,262.60 per month in RSDI benefits. No evidence was presented of receipt of guardianship/conservator expenses; therefore, this step of the calculation is skipped as well. BEM 536, p. 3. Finally, after consideration of all the above income, expenses,

and deductions, the remaining income is divided by the sum of the number of dependents (pursuant to G2C policy) and 2.9. BEM 536, p. 4. Dependent for purposes of G2C includes a person's spouse and children. *Id.* Petitioner has one dependent child in the home and his wife; therefore, his prorated divisor is 4.9 and his prorated share of the group's income is \$257.00.

The same procedure is followed for Petitioner's wife's income. Her only source of income is RSDI in the amount of \$315.00 and no evidence was presented regarding any other expenses or deductions. Therefore, she has the same prorated divisor of 4.9 and her prorated income is \$64.00.

Finally, the adult fiscal group's net income is 2.9 times Petitioner's prorated share for a total of \$745.00 plus 3.9 prorated shares of Petitioner's wife's own income totaling \$249.00 plus one prorated share of Petitioner's income of \$257. BEM 536, pp. 6-7. Petitioner's fiscal group net income is \$1,251.00.

The remainder of the calculations are governed by BEM 544 and 545. BEM 536, p. 7. Deductions are given for insurance premiums and remedial services. BEM 544 (January 2020), pp. 1-2. There was no evidence presented that Petitioner was responsible for insurance premiums or remedial services. Therefore, the total net income is \$1,251.00. To achieve the deductible, the protected income level (PIL) is subtracted from the total net income. The PIL is a set allowance for non-medical need items such as shelter, food, and incidental expenses. *Id.* It is based upon group size. In G2C cases, an adult's fiscal group is the adult and their spouse. BEM 211, p. 9. Since Petitioner is married, he has a group size of two. The PIL for G2C eligibility with a group size of two is \$500.00 because Petitioner is a resident of Wayne County (Shelter Area IV). RFT 240 (December 2013), p. 1; RFT 200 (April 2017), p. 2; BEM 211, p. 9. Petitioner's G2C deductible is \$751.00. On the budget presented at the hearing, the Department properly calculated Petitioner's deductible effective December 2020. However, the HCCDN also presented at the hearing shows a deductible of \$804.00 per month effective December 2020. Since the notice provided to Petitioner shows an incorrect deductible, the Department has not met its burden of proof in establishing 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 calculated Petitioner's MA deductible effective December 2020.

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 December 2020;
2. Notify Petitioner of its decision; and,
3. If Petitioner is eligible for benefits not previously provided, issue supplements to Petitioner or on his behalf, for benefits not previously received.

AMTM/cc



Amanda M. T. Marler

Administrative Law Judge
for Elizabeth Hertel, 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

Via Email:

MDHHS-Wayne-55-Hearings
BSC4-HearingDecision
EQADHearings
C. George
MOAHR

Petitioner- Via USPS

