



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: May 17, 2019  
MOAHR Docket No.: 19-002802  
Agency No. [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: John Markey**

**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 May 2, 2019, from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Akisha Drain, Eligibility Specialist, and Cheryl Watkins, Assistance Payments Supervisor. During the hearing, a 12-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-12.

**ISSUE**

Did the Department properly determine Petitioner's Medicaid (MA) benefits, effective March 1, 2019?

**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 lives in a household that includes herself and her three children, one of whom is a minor. Both of the adult children work. One makes about \$ [REDACTED] per month in earned income and the other makes about \$ [REDACTED] per month in earned income. Exhibit A, p. 8.
2. Petitioner was an ongoing recipient of MA benefits from the Department under the full-coverage Low Income Family (LIF) program.

3. Petitioner submitted to the Department paystubs showing that for the month of January 2019, Petitioner received two paychecks, each covering two weeks-worth of wages, totaling \$█████████ Exhibit A, pp. 9-10.
4. On February 6, 2019, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that effective March 1, 2019, Petitioner was eligible for MA benefits subject to a \$873 monthly deductible under the Group-2-Caretaker (G2C) plan. Exhibit A, pp. 4-6.
5. On ██████████ 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's determination of her MA eligibility, effective March 1, 2019, ongoing.

### **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 was an ongoing recipient of full-coverage MA benefits under the LIF program before being moved to the Group-2-Caretaker (G2C) program, effective March 1, 2019, subject to a \$873 monthly deductible. Petitioner lives with her two adult children and one minor child and receives \$█████████ in monthly earned income. Petitioner's two adult children have monthly earned income totaling \$█████████ Petitioner objected to the Department's action and requested a hearing disputing the Department's determination of Petitioner's MA eligibility.

The Medicaid program comprises several sub-programs or categories. BEM 105 (April 2017), p. 1. The Healthy Michigan Plan (HMP) provides MA coverage to individuals who are (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. Low-Income Family (LIF) MA is another MAGI-related MA category. BEM 110 (April 2018), p. 1. To be eligible for LIF MA, an individual must have a dependent child and income under 54% of the FPL. BEM 110, p. 1.

The Department determined that Petitioner's income was too high for both HMP and LIF eligibility. An individual is eligible for HMP if her household's income does not exceed 133% of the FPL applicable to the individual's group size. For LIF MA, that income number must not exceed 54% of FPL applicable to the individual's group size. Thus, if the individual's income is too high for HMP purposes, it necessarily is too high for LIF MA purposes. A determination of group size under the MAGI methodology requires consideration of the client's tax status and dependents.

In this case, Petitioner testified that claimed her three children as dependents. Therefore, for MAGI purposes, she has a household size of four. BEM 211 (February 2019), pp. 1-2. 133% of the annual FPL in 2019 for a household with four members is \$34,247.50. <https://aspe.hhs.gov/poverty-guidelines>. Therefore, to be income eligible for HMP, Petitioner's annual income cannot exceed \$34,247.50.

Petitioner verified at the hearing that her household income consisted of her monthly income of \$[REDACTED] as shown on the paychecks submitted to the Department. Additionally, Petitioner's dependent adult children combine to earn approximately \$[REDACTED] per month. In total, the household has monthly earned income of \$[REDACTED]. Annualized, that equals \$[REDACTED]. Accordingly, the Department properly determined that Petitioner was not eligible for either HMP or LIF MA as her income exceeded the limit for eligibility based on the rules applicable to those programs.

Although Petitioner was properly found ineligible for HMP and taken off the LIF MA program, the Department, in accordance with Department policy, reviewed Petitioner's circumstances and determined that because she was the parent of a dependent child in her home, she was eligible for MA coverage under the G2C program. See BEM 105, p. 2; BAM 220 (January 2019), pp. 18-20; BAM 210 (January 2019), p. 1; BEM 135 (October 2015), p. 1.

G2C is a Group 2 MA program. Group 2 eligibility for MA coverage is possible even when net income exceeds the income limit for full MA coverage. BEM 105, p. 1. In such cases, the client is eligible for MA coverage with a deductible, with the deductible equal to the amount the individual's net income (countable income minus allowable income deductions) exceeds the applicable Group 2 MA protected income level (PIL), which is based on the client's shelter area (county in which the client resides) and fiscal group size. BEM 135, p. 2; BEM 544 (July 2016), p. 1; RFT 240 (December 2013), p. 1.

For purposes of Group 2 MA eligibility, Petitioner has an MA fiscal group size of one. BEM 211, p. 8. Because she lives in [REDACTED] County, her PIL is \$[REDACTED]. RFT 200 (April 2017); RFT 240, p. 3. Thus, if Petitioner's net income, calculated in accordance with BEM 536 (November 2018), pp. 1-7, exceeds \$408, Petitioner is eligible for MA assistance under the deductible program, with the deductible equal to the amount that her monthly income exceeds \$408.

The Department presented a copy of the G2-FIP related MA net income budget showing the calculation of Petitioner's monthly deductible. Exhibit A, p. 7. The budget

shows that Petitioner prorated income is \$[REDACTED]. An adult's prorated income is determined by dividing monthly budgetable income, calculated in accordance with BEM 536, pp. 1-4, by the adult's applicable prorate divisor, which is the sum of 2.9 and the number of dependents living with the adult. BEM 536, p. 4.

For purposes of determining an adult's eligibility for Group 2 MA, only the income for the adult and her spouse, if any, is considered. BEM 211, p. 8. As discussed above, Petitioner earns \$[REDACTED] monthly. Under BEM 536, this income is reduced by \$[REDACTED] to arrive at a figure of \$[REDACTED] BEM 536, p. 4. In cases where a group member received LIF MA in at least one of the four preceding months, as the Department witness testified to in the hearing, the Department then deducts \$30 plus 1/3 of the person's remaining earned income to get a final net income number. BEM 536, p. 1. In this case, subtracting the \$[REDACTED] results in \$[REDACTED]. That number is then reduced by 1/3 (\$[REDACTED]), resulting in a net income of \$[REDACTED].

For purposes of determining the prorate divisor, dependent means the adult's spouse and unmarried children under age 18. BEM 536, p. 4. In this case, Petitioner is unmarried and has only one minor child. Therefore, Petitioner has one dependent, and her prorate divisor is 2.9 plus one, or 3.9. Petitioner's prorated income is then determined by dividing Petitioner's net income of \$[REDACTED] by the divisor of 3.9. That leaves a correct prorated amount of \$[REDACTED].

For MA purposes, the fiscal *group's* net income for an adult where there is not a spouse in the fiscal group is calculated by multiplying the adult's prorated income times 2.9 BEM 536, p. 6. 2.9 times Petitioner's prorated income of \$[REDACTED] equals a group net income of \$[REDACTED].

Because Petitioner's group's net income of \$[REDACTED] exceeds the applicable \$[REDACTED] PIL by \$[REDACTED], Petitioner was correctly determined to be eligible for MA coverage under the G2C program subject to a deductible. However, the Department did not follow Department policy in determining the applicable deductible. It appears as though the main problem was that the Department neglected to apply the deduction applicable to individuals who have had LIF MA in the months before the determination for G2C is made. When redetermining Petitioner's eligibility and deductible amount, the Department must take that policy into consideration.

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 determined Petitioner's eligibility for MA benefits, effective March 1, 2019.

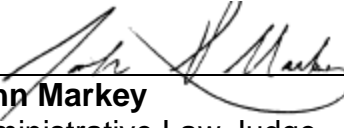
### **DECISION AND ORDER**

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 eligibility for MA benefits, effective March 1, 2019, ongoing;
2. In analyzing Petitioner's eligibility and deductible under the G2C program, apply the policy requiring the Department to set aside \$30 plus 1/3 of remaining income for individual's who were active LIF MA recipients in at least one of the previous four months;
3. Provide Petitioner with the coverage she is entitled to from March 1, 2019, ongoing;
4. If Petitioner is eligible for benefits that she did not receive, ensure that supplements are promptly issued; and
5. Notify Petitioner in writing of its decisions.

JM/cg

  
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**John Markey**  
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

**Via Email:**

MDHHS-Washtenaw-Hearings  
D. Smith  
EQAD  
BSC4- Hearing Decisions  
MOAHR

**Petitioner – Via First-Class Mail:**

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