



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: January 14, 2020  
MOAHR Docket No.: 19-012764  
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 January 8, 2020 from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by April Nemec, Hearings Facilitator.

### **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. Petitioner was an ongoing MA recipient.
2. On [REDACTED] 2019, the Department received Petitioner's completed Redetermination form listing income from employment and her Retirement Survivors Disability Insurance (RSDI) benefit.
3. At the time Petitioner's Redetermination was processed, the Department failed to consider her employment income.
4. On August 14, 2019, the Department completed an audit of Petitioner's MA case and discovered the error in failing to budget her employment income.

5. On the same day, the Department issued a Verification Checklist (VCL) to Petitioner requesting proof of Petitioner's income.
6. On August 22, 2019, the Department received verification of Petitioner's wages in the following gross amounts:

April 19, 2019	\$	
May 3, 2019	\$	
May 17, 2019	\$	
May 24, 2019	\$	
May 31, 2019	\$	
June 7, 2019	\$	
June 14, 2019	\$	
June 21, 2019	\$	
...		
August 16, 2019	\$	

7. Petitioner also received \$919.00 per month in gross RSDI benefits.
8. On August 23, 2019, based upon the pay stubs received and an estimation of the missing check stubs, the Department issued a Health Care Coverage Determination Notice (HCCDN) to Petitioner informing her that effective September 1, 2019, she was eligible for MA with a deductible of \$998.00 per month and that she was eligible for full coverage in the Medicare Savings Program (MSP) on the same date.
9. At some point, the Department recalculated Petitioner's MA deductible and reduced it to \$856.00 effective September 1, 2019; however, no notice was issued informing Petitioner of the change.
10. On November 20, 2019, the Department received Petitioner's request for hearing disputing the MA 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.

In this case, Petitioner disputes the Department's determination that she is only eligible for MA benefits with a monthly deductible. 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 (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.

Petitioner is not under age 19 or pregnant. Petitioner is not the parent or caretaker of a minor child. Therefore, the programs involving these eligibility requirements are inapplicable to the Petitioner. In addition, since Petitioner is a Medicare recipient, she is not eligible for HMP.

In determining the SSI-related MA category Petitioner is eligible to receive, the Department must determine Petitioner's MA fiscal group size and net income. Petitioner has a group size for SSI-related MA purposes of one as she is unmarried. BEM 211 (July 2019), p. 8. Petitioner has RSDI gross income of \$919.00 per month. She also has variable employment income.

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. The 2019 federal poverty level for a one-person household is \$12,490.00. <https://aspe.hhs.gov/poverty-guidelines>. The net income limit is established through policy 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. RFT 242 (April 2019), p. 1. Countable income is calculated by adding the amounts of income actually received/available within the past month or using amounts received in addition to amounts likely to be received during the remainder of the month. BEM 530 (July 2017), pp. 2-3. Petitioner provided numerous paystubs from April 2019 through August 2019; however, the paystubs attributable to June 28, 2019 through August 9, 2019 were not provided. Since Petitioner receives a weekly paycheck, there were seven missing paystubs. Therefore, the Department estimated Petitioner's employment income by taking the Year-To-Date (YTD) income from her August 16, 2019 paystub and subtracted the income from that pay period and the YTD income from the June 21, 2019 paystub to calculate the total value of the missing paystubs. From there, the Department then divided by seven to achieve the average weekly wage of \$ [REDACTED]. Next, the Department multiplied by four to calculate the monthly income as \$ [REDACTED]. While this was a thorough and worth while effort by the Department to calculate Petitioner's income, it failed to consider Petitioner's

income actually received. To more accurately follow policy, Petitioner's actual pay of \$ [REDACTED] for August 16, 2019 should be added to the average income multiplied by four because there were four missing paystubs for the month of August. Ultimately, this method results in a higher income for Petitioner and is less favorable to her. Therefore, the Department's calculation of \$ [REDACTED] will be utilized for the remainder of this decision.

To complete the calculation of Petitioner's income, the Department took Petitioner's RSDI income of \$919.00 and applied the \$20.00 general exclusion for total of \$899.00. BEM 541 (July 2019), p. 3. Then Petitioner's earned income of \$ [REDACTED] is considered and other deductions to income include a disregard for earned income, guardianship or conservator expenses, and work expenses. BEM 541, p. 3. These are the only allowable deductions in determining eligibility for Ad-Care. No evidence was presented that Petitioner had any guardianship, conservator, or work expenses. However, Petitioner is eligible for the earned income disregard which equals \$65.00 plus  $\frac{1}{2}$  of any remaining earnings or \$ [REDACTED]. Therefore, Petitioner's net income is \$ [REDACTED] (rounded to the nearest dollar), which is greater than the net income limit and the federal poverty limit when her net income is multiplied by 12. 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 program 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 (July 2016), 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, she is in shelter area VI, and her PIL is \$408.00. 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 \$408.00, 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 are greater than \$408.00.

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. These are the only allowable deductions when considering MA Group 2-Aged, Blind, Disabled (G2S) eligibility. Remedial services produce the maximum reduction of physical and mental limitations and restore an individual to their best possible functional level. BEM 544, p. 2. Petitioner agreed that she does not have these services. In addition, Petitioner was not responsible for her Medicare premiums as of September 2019 and had no other insurance premiums; therefore, no expense is considered. Next, Petitioner's PIL of \$408.00 was subtracted by the Department to

reach a deductible of \$856.00. The Department properly determined Petitioner's MA eligibility in the G2S program. Furthermore, policy does not require that the Department issue Petitioner a notice regarding a reduction in her deductible amount unless she meets her deductible in a given month and MA coverage is activated. BAM 220 (April 2019), p. 4.

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 acted in accordance with Department policy when it determined Petitioner's MA eligibility and calculated her deductible as \$856.00 per month.

**DECISION AND ORDER**

Accordingly, the Department's decision is **AFFIRMED**.

AM/cg



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**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

**Via Email:**

MDHHS-Genesee-Union St.- Hearings  
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**Petitioner – Via First-Class Mail:**

