



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: February 6, 2020  
MOAHR Docket No.: 19-013266  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Alice C. Elkin**

### **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 29, 2020, from Detroit, Michigan. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by Morgan Hafler, Hearing Facilitator, and Ronald Coleman Johns, Assistance Payment Worker. Nour Seklawi-Khachab, Eligibility Specialist, observed the hearing but did not participate.

### **ISSUE**

Did the Department properly determine that Petitioner was eligible for Medicaid (MA) subject to a monthly deductible?

### **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's household consists of him, his wife, and their three children (a 23 year old, a 19 year old, and a 7 year old).
2. Petitioner receives Retirement, Survivors and Disability Insurance (RSDI) social security benefits based on a disability. In 2019, he received \$1118.50 in gross monthly RSDI benefits; in 2020, he receives \$1136.60 in gross monthly RSDI benefits (Exhibit A, pp. 9-11).
3. In 2017, Petitioner received \$6,432 in gross annual pension benefits (Exhibit A, p. 8).

4. In 2019, Petitioner paid \$135.50 in monthly Medicare Part B premiums from his RSDI benefits; in 2020, he pays \$144.50 in monthly Medicare Part B premiums from his RSDI (Exhibit A, pp. 5, 9)
5. Petitioner's wife and his 7-year-old son each received \$266 in gross monthly RSDI benefits in 2019 and each receive \$270 in gross monthly RSDI benefits in 2020 (Exhibit A, pp. 12-16).
6. On October 10, 2019, the Department sent Petitioner a Health Care Coverage Determination Notice notifying him that he was eligible for MA subject to a monthly \$814 deductible (Exhibit A, p. 4).
7. On [REDACTED] 2019, the Department received Petitioner's timely Request for Hearing, disputing his MA deductible (Exhibit A, pp. 1-2).

### **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 requested a hearing to dispute the Department's notice to him that he was eligible for MA with a monthly \$814 deductible effective November 1, 2019. The Department explained that, upon receipt of Petitioner's hearing request, it reviewed the calculation of his deductible and determined that some of the figures used were inaccurate and, when the figures were updated, Petitioner's deductible would increase to \$880 effective January 2020.

Under federal law, Petitioner is entitled to the best available MA coverage he is eligible to receive based on his income and other eligibility criteria. BEM 105 (January 2020), p. 2. Because Petitioner receives Medicare, he is not eligible for MA under the Healthy Michigan Plan. See BEM 137 (January 2020), p. 1. Because he receives RSDI benefits due to a disability, he is potentially eligible to receive full-coverage benefits under the Ad-Care program if he is income eligible based on his MA fiscal group size. BEM 163 (July 2019), p. 8. Because Petitioner is married, his fiscal group size for purposes of the Ad-Care program is two. BEM 211 (July 2019), p. 8. The income limit under the Ad-

Care program where there are two members in the MA fiscal group is \$1,430. BEM 163, p. 2; RFT 242 (April 2019), p 1.

Only Petitioner and his wife's income is considered in determining income-eligibility for Ad-Care. BEM 211, p. 8. In 2019, Petitioner received \$1,118.50 in monthly RSDI income and, per Petitioner's testimony, his wife received \$266 in monthly RSDI income. The Department presented evidence that in 2017 Petitioner received \$6,432 in pension income (Exhibit A, p. 8), and, after dividing this amount by 12, concluded that he received \$536 in monthly pension benefits. Petitioner did not dispute his receipt of pension income. Petitioner and his wife's gross unearned income totals \$1,920. This amount, reduced by the \$20 disregard provided in policy, exceeds the income limit for Ad-Care eligibility by \$490. See BEM 541 (January 2020), p. 3. Therefore, Petitioner is not eligible for MA under the Ad-Care program.

Despite having excess income for Ad-Care eligibility, Petitioner was potentially eligible for MA coverage under a Group 2 deductible program, which provides for MA coverage subject to a monthly deductible. Because Petitioner is the parent of a minor child, the Group 2 Caretaker/Relative (G2C) MA program would provide the lowest deductible and, as such, is the most beneficial Group 2 deductible program Petitioner is eligible for. BEM 105, p. 2; BEM 135 (October 2015), p. 1.

Under a deductible program, a client is eligible for MA coverage with a monthly deductible equal to the amount the individual's net income, calculated in accordance with the applicable Group 2 MA policy, exceeds the applicable Group 2 MA protected income level (PIL). The PIL is based on the county in which the client resides and the client's fiscal MA group size. BEM 135, p. 2; BEM 544 (January 2020), p. 1. Petitioner's group size for G2C purposes is two, him and his wife. BEM 211, p. 9. The PIL for Wayne County, where Petitioner resides, for a two person group is \$500. RFT 200 (April 2017), p. 2; RFT 240 (December 2013), p. 1.

To show how the deductible was calculated, the Department presented two G2-FIP Related MA budgets, one for November 2019 ongoing (that resulted in the October 10, 2019 Health Care Coverage Determination Notice notifying him that his MA deductible was \$814), and the other one January 2020 ongoing, which the Department testified was run due to an update in financial information resulting from a review of Petitioner's household's income following receipt of the hearing request (Exhibit A, pp. 5-6).

The Department testified that Petitioner's prorated share of his income in 2019 was based on his receipt of gross monthly RSDI income of \$1,118.50 and pension income of \$536; his wife's gross monthly RSDI income of \$136; and Petitioner having one dependent (defined as a child under age 18) in the household. The Department testified that Petitioner's prorated share of his income in 2020 was based on his receipt of gross monthly RSDI income of \$1,136.60 and pension income of \$536; his wife's gross monthly RSDI income of \$270; and Petitioner having one dependent in the household.

Based on this information, Petitioner's prorated share of his income in 2020 is \$341 and his wife's prorated share of the household's income is \$55. See BEM 536 (July 2019), pp. 1-7 (for calculating net income for Group 2 MA programs) and BEM 530 (July 2017), pp. 3-4 (for prospecting income for Group 2 MA programs). For G2C purposes, *Petitioner's group's* net income is \$1,543. BEM 536, pp. 6-7. To determine *Petitioner's* net income for G2C purposes, this figure is reduced by health insurance expenses incurred by Petitioner and, for the months of January, February, and March, the RSDI cost-of-living (COLA) increase. BEM 544, p. 1. In 2020, Petitioner incurred monthly part B Medicare premiums of \$144.60 and his RSDI income increased \$18 from his RSDI income in 2019. The group's net income of \$1,543 reduced by the \$144.60 Medicare premium and the \$18 COLA exclusion results in Petitioner having net income of \$1,380. This net income, decreased by the \$500 PIL, results in a monthly deductible of \$880, effective January 2020. Thus, the Department properly calculated Petitioner's MA deductible for January 2020 ongoing.

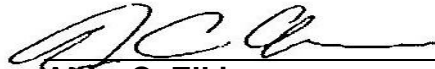
A review of the MA FIP-related budget for 2019 resulting in the \$814 deductible uses Petitioner's 2019 RSDI income and monthly pension income of \$536. However, based on Petitioner's spouse's prorated income of \$35 (Exhibit A, p. 5), the Department used gross monthly income of \$171.50 for Petitioner's wife. This is consistent with the information shown on the SOLQ that Petitioner's wife received \$172 in RSDI income until October 2018. Although the Department testified that it was using \$136 for Petitioner's wife's RSDI income, because a portion of her RSDI income was being withheld due to her immigration status, it did not present any evidence to support this figure. Rather, it appears that the Department failed to update Petitioner's wife's RSDI income for 2019, which, according to the SOLQ, and consistent with Petitioner's testimony, was \$266 per month. Although it is unclear how Petitioner's spouse's income was determined for the budget, since the Department's figures resulted in a lower deductible amount than Petitioner was eligible to receive if the Department had used the correct RSDI amount for Petitioner's wife in 2019, any error for the 2019 budget was harmless.

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 calculated Petitioner's monthly MA deductible.

**DECISION AND ORDER**

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

ACE/tlf



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**Alice C. Elkin**  
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-Wayne-55-Hearings  
BSC4 Hearing Decisions  
EQAD  
D. Smith  
MOAHR

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

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