



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: March 19, 2021
MOAHR Docket No.: 21-000200
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 17, 2021, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Amy Mull, Eligibility Specialist and Gloria Thomson, Family Independence Specialist.

ISSUE

Did the Department properly determine Petitioner's Medical Assistance (MA) 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 ██████████ 2020, Petitioner submitted an application for MA benefits (Exhibit A, pp. 9-16).
3. Petitioner's household consisted of herself and her minor child.
4. Petitioner had unearned income in the form of Retirement, Survivors and Disability Insurance (RSDI) in the gross amount of ██████████ per month (Exhibit A, pp. 26-28).
5. Effective January 1, 2021, Petitioner was approved for MA benefits subject to a monthly deductible of \$1,431 (Exhibit A, p. 32).

6. On January 11, 2021, Petitioner submitted a request for hearing disputing the Department's actions.

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 MA recipient with a deductible of \$1,437. On [REDACTED], 2020, Petitioner submitted an application for MA benefits. The Department updated Petitioner's income and determined she was eligible for MA benefits with a monthly deductible of \$1,431.

The Department concluded that Petitioner was not eligible for the full-coverage Healthy Michigan Plan (HMP) program because her income exceeded the applicable income limit for her group size. HMP uses a Modified Adjusted Gross Income (MAGI) methodology. BEM 137 (October 2016), p. 1. An individual is eligible for HMP if his household's income does not exceed 133% of the Federal Poverty Level (FPL) applicable to the individual's group size. BEM 137, p. 1. Additionally, for MAGI-related MA programs, the Department allows a 5 percent disregard in the amount equal to five percent of the FPL level for the applicable family size. BEM 500 (July 2017), p. 5. It is not a flat 5 percent disregard from the income. BEM 500, p. 5. The 5 percent disregard is applied to the highest income threshold. BEM 500, p. 5. The 5 percent disregard shall be applied only if required to make someone eligible for MA benefits. BEM 500, p. 5.

The household of a non-tax filer who is not claimed as a tax dependent consists of the individual and, if living with the individual: (i) the individual's spouse; (ii) the individual's natural, adopted and step children under the age of 19 or under the age of 21 if a full time student; and (iii) if the individual is under the age of 19 (or under 21 if a full time student), the group consists of individual's natural, adopted and step parents and natural, adoptive and step siblings under the age of 19 (or under 21 if a full time student). BEM 211 (February 2019), p. 2. In this case, Petitioner did not file taxes. Petitioner was separated from her spouse and lived with her minor child. Therefore, for HMP purposes, she has a household size of two. BEM 211 (January 2016), pp. 1-2.

138% of the annual FPL in 2020 for a household with two members is \$23,791.20. See <https://aspe.hhs.gov/poverty-guidelines>. The monthly income limit for a group size of one is \$1,982.60. Therefore, to be income eligible for HMP, Petitioner's income cannot exceed \$23,791.20 annually or \$1,982.60 monthly. To determine financial eligibility under HMP, income must be calculated in accordance with MAGI under federal tax law. BEM 500 (July 2017), p. 3. MAGI is based on Internal Revenue Service rules and relies on federal tax information. BEM 500, p. 3. Income is verified via electronic federal data sources in compliance with MAGI methodology. MREM, § 1.

In order to determine income in accordance with MAGI, a client's adjusted gross income (AGI) is added to any tax-exempt foreign income, Social Security benefits, and tax-exempt interest. AGI is found on IRS tax form 1040 at line 37, form 1040 EZ at line 4, and form 1040A at line 21. Alternatively, 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 the employer takes out for health coverage, childcare, or retirement savings. See <https://www.healthcare.gov/income-and-household-information/how-to-report/>. For MAGI MA benefits, all RSDI income is countable to tax-filers and adults not claimed as dependents. BEM 503 (January 2019), p. 29.

The Department presented Petitioner's State Online Query (SOLQ) report showing that she had RSDI income in the gross amount of [REDACTED] per month. Petitioner's income exceeds the income limit for a group size of two under the HMP program. Therefore, the Department properly determined Petitioner was not eligible for MA benefits under the HMP program.

The Department determined that because Petitioner was the parent of a dependent child in her home, she was eligible for MA coverage under the G2C program. See BEM 105 (April 2017), p. 2; BAM 220 (April 2017), pp. 17-19; BAM 210 (April 2017), 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 (October 2017), p. 1.

For purposes of Group 2 MA eligibility, Petitioner, who is separated, has an MA fiscal group size of one. BEM 211 (January 2016), p. 8. Because she lives in Wayne County, her PIL is \$375. RFT 200 (December 2013); RFT 240, p. 1. Thus, if her household's net income, calculated in accordance with BEM 536 (April 2017), pp. 1-7, exceeds [REDACTED], Petitioner is eligible for MA assistance under the deductible program, with the deductible equal to the amount that her monthly net income exceeds [REDACTED].

The Department presented a copy of the G2C MA net income budget showing the calculation of Petitioner's monthly deductible (Exhibit A, p. 24). The budget shows that Petitioner's 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.

As stated above, the Department provided Petitioner's SOLQ report showing that she has RSDI income in the gross amount 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 lived with her minor child. Therefore, Petitioner has one dependent, and her prorate divisor is 2.9 plus one, or 3.9. Petitioner's prorated income is [REDACTED] divided by 3.9, or \$634 as shown on the budget.

For MA purposes, if an adult has dependents and does not have a spouse in the fiscal group, the adult's net income is 2.9 times the prorated income. 2.9 times Petitioner's prorated income of \$634 is [REDACTED], as shown on the budget.

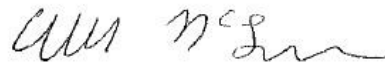
Net income is reduced by allowable needs deductions for health insurance premiums (which includes Medicare premiums paid by the household), remedial services for individuals in adult foster care home or home for the aged and cost of living adjustments (COLA) (for January through March only). BEM 544, pp. 1-2. There was no evidence that a remedial service allowance or insurance premium deduction should be applied in Petitioner's case. Petitioner was eligible for the \$32 COLA exclusion. Petitioner's share of her income reduced by the \$32 COLA exclusion is [REDACTED].

Petitioner's net income of [REDACTED] reduced by the \$375 PIL is [REDACTED]. Therefore, the Department acted in accordance with policy when it determined Petitioner was eligible for MA benefits subject to a monthly deductible of [REDACTED].

DECISION AND ORDER

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

EM/jem



Ellen McLemore

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-17-Hearings
BSC4-HearingDecsions
C. George
EQADhearings
MOAHR

Petitioner – Via First-Class Mail:

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