



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: August 24, 2023
MOAHR Docket No.: 23-003436
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Linda Jordan

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 hearing was held on July 27, 2023 via teleconference. Petitioner appeared and represented himself. Petitioner's wife, ██████████ (Wife), appeared as a witness for Petitioner. Lianne Scupholm, Hearings Facilitator, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department).

ISSUE

Did MDHHS properly determine that Petitioner was eligible for MA coverage with a 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. On April 29, 2023, Petitioner applied for MA (Exhibit A, p. 8). Petitioner reported that his wife, ██████████ (Wife) was a household member, and that he planned to file a federal tax return jointly with Wife (Exhibit A, p. 10). Petitioner reported that he had a disability and that he had Medicare coverage (Exhibit A, pp. 10-11). Petitioner stated that Wife received employment and self-employment income and that he received Retirement, Survivors, and Disability Insurance (RSDI) income (Exhibit A, p. 12).
2. On May 12, 2023, MDHHS sent Petitioner a Health Care Coverage Determination Notice indicating that he was approved for MA coverage with a \$2,456.00 monthly deductible, effective April 1, 2023 ongoing (Exhibit A, p.15).

3. On June 12, 2023, Petitioner requested a hearing to dispute MDHHS' determination regarding his MA coverage.

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).

Medicaid (MA) 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. MDHHS administers MA pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MA is also known as Medical Assistance. BEM 105 (January 2021), p. 1.

In this case, MDHHS determined that Petitioner was eligible for MA under the Group 2 Aged, Blind and Disabled (G2S) category with a deductible of \$2,456.00. Petitioner argued that Wife's income should not have been factored into the eligibility decision.

The MA program includes several sub-programs or categories. BEM 105, p. 1. To receive MA under a Supplemental Security Income (SSI)-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. *Id.* MA eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, MIChild, Flint Water Group and Health Michigan Plan (HMP) is based on Modified Adjusted Gross Income (MAGI) methodology. *Id.* The terms Group 1 and Group 2 relate to financial eligibility factors. *Id.* For Group 1, net income (countable income minus allowable income deductions) must be at or below a certain income limit for eligibility to exist. *Id.* The income limit, which varies by category, is for nonmedical needs such as food and shelter. *Id.* Medical expenses are not used when determining eligibility for MAGI-related and SSI-related Group 1 categories. *Id.* For Group 2, eligibility is possible even when net income exceeds the income limit. *Id.* This is because incurred medical expenses are used when determining eligibility for Group 2 categories. *Id.* Group 2 categories are considered a limited benefit because a deductible is possible. *Id.* Persons may qualify under more than one MA category. *Id.*, p. 2. Federal law gives them the right to the most beneficial category. *Id.* The most beneficial category is the one that results in eligibility, the least amount of excess income or the lowest cost share. *Id.*

To evaluate Petitioner's eligibility for MA, MDHHS must determine Petitioner's MA fiscal group size, net income and assets. MDHHS determines fiscal and asset groups separately for each person requesting MA. BEM 211 (July 2019), p. 5. When the adult is

an L/H patient¹, or is applying for MA Waiver for Elderly and Disabled (BEM 106), Program of All Inclusive Care for the Elderly (PACE) (BEM 167), or Freedom to Work (BEM 174), the fiscal and asset group is the individual, even if the individual lives with a spouse. BEM 211, p. 8. When the adult is applying for any other program, the fiscal and asset group is the adult applicant and the spouse. *Id.* For Group 2 Fiscal groups, MDHHS considers the person's own income and the income of the following persons who live with the individual: the individual's spouse and the individual's parent(s), if the individual is a child. *Id.*

Petitioner was eligible for SSI-related MA based on his disability and receipt of Medicare. Petitioner argued that Wife's income should not have been included in the MA determination because he was permanently disabled. However, there was no evidence that Petitioner was an L/H patient or that he was applying for a MA Waiver Program or PACE, or that Petitioner and Wife were living separately. Pursuant to policy, Petitioner's fiscal group included himself and his spouse. BEM 211, p. 8.

MDHHS determined that Petitioner's net income was \$████████ based on his receipt of RSDI in the gross amount of \$1,704.00 and Wife's monthly employment income of \$████████, less applicable deductions, including the \$20 disregard, the \$65+1/2 disregard (Exhibit A, p. 19). BEM 541 (January 2023), p. 3. Petitioner did not dispute the amounts that MDHHS used for the earned and unearned income, but as described above, objected to the inclusion of Wife's employment income. Based on policy, Wife was part of Petitioner's fiscal group and therefore, MDHHS properly included her income.

Based on Petitioner's circumstances, he was potentially eligible for Ad-Care MA. The Ad-Care program is a group 1, full-coverage SSI-related MA program for disabled individuals who are income-eligible based on their MA fiscal group size. BEM 163 (July 2017), p. 1. However, net income for this program cannot exceed 100% of the Federal Poverty Level (FPL). *Id.* To be income eligible for this program, Petitioner's income would have had to be \$1,663.50 or less for a fiscal group-size of two. RFT 242 (April 2023), p. 1. Petitioner's income exceeded this amount and therefore, he was not eligible for Ad-Care MA.

MDHHS alleged that Petitioner was eligible for G2S MA, which is an SSI-related Group 2 MA category. BEM 166 (April 2017), p. 1. MDHHS considers eligibility under this category only when eligibility does not exist under BEM 155 through 164, 170 or 171. *Id.* Income eligibility exists for G2S MA when net income does not exceed the Group 2 needs in BEM 544. *Id.*, p. 2. If the net income exceeds Group 2 needs, MA eligibility is still possible with a deductible, per BEM 545. *Id.* The deductible is equal to the amount the individual's net income, calculated in accordance with the applicable Group 2 MA policy, minus the applicable Group 2 MA protected income level (PIL). The PIL is a set

¹ L/H patient refers to a MA client who was in the hospital and/or long-term care facility (LTC) during an L/H month. An L/H month is a calendar month containing at least one day that is part of a period in which a person was (or is expected to be) in an LTC facility and/or hospital for at least 30 consecutive days, and no day that the person was a waiver patient. BPG Glossary (January 2022), p. 39.

allowance for non-medical need items such as shelter, food and incidental expenses that is based on the county in which the client resides and the client's fiscal MA group size. BEM 544 (January 2020), p. 1. The PIL for ██████ County, where Petitioner resides, for his two-person MA group, is \$500.00. RFT 200 (April 2017), p. 2; RFT 240 (December 2013), p. 1.

In determining the monthly deductible, net income is reduced by health insurance premiums paid by the MA group and remedial service allowances for individuals in adult foster care or homes for the aged. BEM 544, pp. 1-3. In this case, no evidence was presented that Petitioner resided in an adult foster care home or home for the aged. Therefore, he is not eligible for any remedial service allowances. Because he is responsible for Part B Medicare premiums of \$184.90, his countable income is \$██████. When Petitioner's countable income of \$██████ is reduced by the PIL of \$██████, it equals \$██████ (dropping the cents). Therefore, MDHHS properly determined that Petitioner was approved for G2S MA with a 2,456.00 deductible.

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 MDHHS acted in accordance with Department policy when it determined Petitioner's eligibility for MA.

DECISION AND ORDER

Accordingly, MDHHS' decision is **AFFIRMED**.

LJ/tm



Linda Jordan
Administrative Law Judge

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-Electronic Mail :

DHHS
Kristina Etheridge
Calhoun County DHHS
190 East Michigan
Battle Creek, MI 49016
**MDHHS-Calhoun-
Hearings@michigan.gov**

Interested Parties
M. Schaefer
EQADHearings
BSC3

Via-First Class Mail :

Petitioner
[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]