



STATE OF MICHIGAN

GRETCHEN WHITMER
GOVERNOR

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA
ACTING DIRECTOR

[REDACTED]
[REDACTED]
MI [REDACTED]

Date Mailed: October 17, 2023
MOAHR Docket No.: 23-005245
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

On August 29, 2023, Petitioner, [REDACTED] requested a hearing to dispute a Medical Assistance (MA) determination. As a result, a hearing was scheduled to be held on October 12, 2023, pursuant to MCL 400.9; 42 CFR 431.200 to 431.250; and Mich Admin Code, R 792.11002. Petitioner appeared at the hearing with his spouse, [REDACTED] Respondent, Department of Health and Human Services (Department), had Kim Wood, Eligibility Specialist, and Julie Claffey, Assistance Payments Supervisor, appear as its representatives. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 33-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUE

Did the Department properly determine Petitioner's 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 is aged and/or disabled.
2. Petitioner and his spouse both have Medicare Part B coverage.
3. Petitioner received full-coverage MA from the Department through AD Care.

4. On July 8, 2023, Petitioner submitted information to the Department to renew his eligibility for MA.
5. On July 19, 2023, the Department mailed a verification checklist to Petitioner. The verification checklist instructed Petitioner to provide proof of all earned and unearned income for the last 30 days.
6. Petitioner provided the Department with proof of income for himself and his spouse.
7. Petitioner received gross income of [REDACTED] per month from social security RSDI.
8. Petitioner's spouse received gross income of [REDACTED] per month from social security RSDI.
9. Petitioner's spouse received gross income of [REDACTED] per month from Canada Pension.
10. The exchange rate for Canadian Dollars was 0.7416 as of August 1, 2023.
11. The Department reviewed Petitioner's information and determined that Petitioner's monthly household income was [REDACTED].
12. The Department determined that Petitioner's group's income exceeded the limit to be eligible for full-coverage MA from the Department through AD Care.
13. The Department determined that the best MA coverage that Petitioner was eligible for from the Department was Plan First.
14. On August 2, 2023, the Department mailed a health care coverage determination notice to Petitioner to notify Petitioner that he was eligible for Plan First coverage effective September 1, 2023.
15. Petitioner requested a hearing to dispute the Department's decision.

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 administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

Health care coverage for adults is available through various programs, including AD Care. In order for a client to be eligible for full-coverage AD Care, the client must be aged or disabled, and the client's group's net income must not exceed 100% of the Federal Poverty Limit (FPL). BEM 163 (July 1, 2017), p. 1-2. For AD Care, the client's group size consists of the client and the client's spouse. BEM 211 (July 1, 2019), p. 8. Thus, Petitioner's group consists of Petitioner and his spouse, and their combined net income must not exceed 100% of the FPL. The FPL for a household size of two in 2023 is \$19,720.00. 88 FR 3424 (January 19, 2023). This is equal to a monthly income of \$1,643.33.

When group members receive income from social security RSDI, the gross amount received from RSDI is countable. BEM 163 at p. 2. However, \$20.00 is disregarded from social security RSDI income. BEM 541 (January 1, 2023), p. 1. In this case, Petitioner and his spouse received a combined total of [REDACTED] per month from social security RSDI. After the \$20.00 disregard, the countable amount was [REDACTED] per month. Additionally, Petitioner's spouse received income from Canada Pension.

Retirement income such as income from Canada Pension is countable income. BEM 503 (January 1, 2023), p. 29. Income from Canada fluctuates due to the exchange rate. To prospect future income, the Department must use a best estimate of income to be received in the future. BEM 505 (October 1, 2022), p. 3-4. The exchange rate in effect on August 1, 2023, was 0.7416. Thus, as of August 1, 2023, the exchange rate of 0.7416 was the best estimate of income to be received in the future. Using the exchange rate of 0.7416, Petitioner's spouse's income from Canada Pension was [REDACTED] per month.

Petitioner and his spouse had a total combined income of [REDACTED] per month, and they were not eligible for any other deductions from their income. Although the income limit states that it is based on "net income," this refers to gross income after allowable deductions. BEM 541 (January 1, 2023). Petitioner was not eligible for any of the allowable deductions other than the \$20.00 disregard for social security RSDI. Thus, Petitioner's group's net income exceeded the limit for Petitioner to be eligible for full-coverage AD Care because the income limit was \$1,643.33 per month, and Petitioner's group's income was [REDACTED] per month. Therefore, the Department properly found that Petitioner was no longer eligible for full-coverage AD Care.

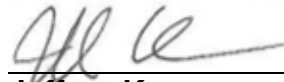
Petitioner asserted that his spouse's income varies greatly due to the exchange rate, and the Department did not properly consider the fluctuations when it made its determination. The reason Petitioner's spouse's income fluctuates is due to changes in the currency exchange rate. There is no way to predict what the currency rate will be in the future, so the best way to predict future income is the use the exchange rate in effect at the time of the determination. As discussed above, Petitioner' group's income exceeded the limit even when this was considered.

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 did act in accordance with its policies and the applicable law when it determined Petitioner's Medical Assistance eligibility.

IT IS ORDERED the Department's decision is **AFFIRMED**.

JK/ml



Jeffrey Kemm
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
Lacey Whitford
Isabella County DHHS
1919 Parkland Drive
Mt. Pleasant, MI 48858
MDHHS-Isabella-Hearings@michigan.gov

Interested Parties

BSC2
M Schaefer
EQAD
MOAHR

Via First Class Mail:

Petitioner

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