



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]
MI [REDACTED]

Date Mailed: November 8, 2023
MOAHR Docket No.: 23-006359
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

On September 25, 2023, Petitioner, [REDACTED] requested a hearing to dispute a Medical Assistance (MA) determination. As a result, a hearing was scheduled to be held on November 2, 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 and represented herself. Respondent, Department of Health and Human Services (Department), had Brad Reno, Hearing Facilitator, appear as its representative. 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 disabled.
2. Petitioner has a spouse and two dependent children.
3. Petitioner receives gross income of [REDACTED] per month from social security RSDI.
4. Petitioner has Medicare coverage.

5. Petitioner's spouse is employed by [REDACTED] and he had the following earnings in August 2023:
 - a. August 4, 2023, gross pay of [REDACTED]
 - b. August 11, 2023, gross pay of [REDACTED]
 - c. August 18, 2023, gross pay of [REDACTED]
 - d. August 25, 2023, gross pay of [REDACTED]
6. On June 6, 2023, Petitioner submitted a renewal form to the Department to renew her eligibility for MA.
7. The Department reviewed Petitioner's case and determined that the best health care coverage that Petitioner was eligible for was MA-G2S with a monthly deductible of \$4,302.00, effective October 1, 2023.
8. On August 29, 2023, the Department mailed a health care coverage determination notice to Petitioner to notify her that she was eligible for MA with a monthly deductible of \$4,302.00, effective October 1, 2023.
9. The Department subsequently revised the budget used to calculate Petitioner's deductible amount, and the Department determined that Petitioner was eligible for MA coverage with a \$2,211.00 monthly deductible effective November 1, 2023.
10. Petitioner requested a hearing to dispute the Department's MA eligibility determination.

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.

The Department found Petitioner eligible for MA with a deductible, and Petitioner is disputing her deductible amount. Health care coverage with a deductible is available

through two different programs: coverage for senior, disabled, or veteran individuals (MA-G2S) and coverage for parent or caretaker individuals (MA-G2C). In this case, the Department found Petitioner eligible for MA-G2S. For MA-G2S, an adult client's group consists of the client and the client's spouse. BEM 211 (July 1, 2019), p. 8.

At redetermination, the Department creates a new budget to determine a client's deductible amount. BEM 530 (April 1, 2020), p. 1. The Department uses the amount of income received in the processing month as the amount of income in the budget. *Id.* at p. 3. In this case, the Department processed Petitioner's redetermination in August 2023, so income from August 2023 is the relevant income used in the budget.

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 received [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 employment. Petitioner's spouse received [REDACTED] from his employment in August 2023. For MA-G2S, a client is eligible for an earned income deduction of \$65.00 plus 1/2 of the remaining earned income. *Id.* at 3. In this case, the total disregard equals [REDACTED]. Thus, the total countable amount of Petitioner's spouse's earned income is [REDACTED]. Therefore, Petitioner and her spouse had a total combined countable income of [REDACTED] for MA-G2S.

Group 2 MA provides health care coverage for any month that (a) an individual's countable income does not exceed the individual's needs as defined in policy, or (b) an individual's allowable medical expenses equal or exceed the amount of the individual's income that exceeds the individual's needs. BEM 166 (April 1, 2017), p. 2.

To determine whether an individual's income exceeds her needs, the Department determines the individual's countable income and needs. As stated above, Petitioner's countable income is [REDACTED] for MA-G2S. Needs consist of a protected income limit set by policy, the cost of health insurance premiums, and the cost of remedial services. BEM 544 (January 1, 2020), p. 1-3. The protected income limit for a group size of two in Genesee County was \$541.00 per month. RFT 200 (April 1, 2017) and RFT 240 (December 1, 2013). There was no evidence that Petitioner paid health insurance premiums, and there was no evidence that Petitioner paid allowable remedial care expenses. Thus, Petitioner's excess income was [REDACTED] minus \$541.00, which equals [REDACTED] per month. Therefore, Petitioner's monthly deductible for MA-G2S is [REDACTED].

This monthly deductible is less than the \$4,302.00 deductible amount that the Department determined, so the Department did not properly determine Petitioner's monthly deductible amount when it determined that Petitioner's monthly deductible was \$4,302.00 effective October 1, 2023.

The Department asserted that Petitioner may be eligible for MA-G2C, which could potentially result in a lower monthly deductible. Based on the evidence presented, it is

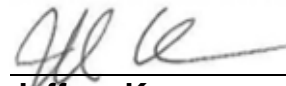
unclear if health care coverage under MA-G2C would be more favorable to Petitioner. Specifically, it is unclear whether Petitioner's spouse would be eligible for the \$30 plus 1/3 disregard because there was no evidence that Petitioner's spouse received Family Independence Program (FIP) cash assistance or Low-Income Family MA (LIF) in at least one of the four calendar months preceding August 2023. The Department should review Petitioner's case and determine whether health care coverage under MA-G2C would be more favorable to Petitioner.

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 not 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 **REVERSED**. The Department shall reprocess Petitioner's Medical Assistance redetermination consistent with this decision to calculate Petitioner's monthly deductible amount effective October 1, 2023. The Department shall begin to implement this decision within 10 days of the date of mailing of this decision and order.

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

Janice Collins
Genesee County DHHS Union St District Office
125 E. Union St 7th Floor
Flint, MI 48502

MDHHS-Genesee-UnionSt-Hearings@michigan.gov

Interested Parties

BSC2
M Schaefer
EQAD
MOAHR

Via First Class Mail:

Petitioner

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