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GOVERNOR

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

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Date Mailed: January 5, 2024  
MOAHR Docket No.: 23-006505  
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 December 6, 2023, via teleconference. Petitioner appeared and represented herself. Valarie Foley, Hearings Facilitator, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department).

### **ISSUE**

Did MDHHS properly determine Petitioner's eligibility for Medicaid (MA) coverage?

### **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 recipient of MA coverage.
2. On ██████████, 2023, Petitioner submitted an application for health care coverage (Exhibit A, p. 7). MDHHS processed the document as a redetermination for MA (Exhibit A, p. 7).
3. On September 23, 2023, MDHHS sent Petitioner a Health Care Coverage Determination Notice, indicating that she was eligible for MA with a \$425.00 monthly deductible (Exhibit A, p. 15).

4. On October 3, 2023, Petitioner filed a Request for a Hearing to dispute MDHHS' determination regarding her MA benefits (Exhibit A, pp. 3-5).

### **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 Caretaker Relatives (G2C) category with a monthly deductible of \$425.00 (Exhibit A, p. 24). Petitioner disputed MDHHS' determination.

MA 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.* Persons may qualify under more than one MA category. Federal law gives them the right to the most beneficial category. The most beneficial category is the one that results in eligibility or the least amount of excess income.

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.*

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. MDHHS

determined that Petitioner was eligible for an SSI-related MA category based on her disability and receipt of Retirement, Survivors and Disability Insurance (RSDI). MDHHS determined that Petitioner had a fiscal group size of one. When an adult is applying for SSI-related MA programs, excluding waiver programs or Freedom to Work, the fiscal and asset group is the adult applicant and the spouse. BEM 211 (July 2019), p. 8. No evidence was presented that Petitioner was married. Therefore, MDHHS properly determined that Petitioner had a group size of one.

MDHHS introduced an SSI-Related MA budget, which showed that it budgeted \$[REDACTED] for Petitioner's monthly unearned income based on her receipt of RSDI. Petitioner did not dispute this amount but testified that she received less than the gross amount due to an overpayment. However, Petitioner acknowledged that she did not inform MDHHS of the overpayment prior to the hearing. Petitioner was instructed to submit a change report to MDHHS with this information. Given that MDHHS did not have advance knowledge of the overpayment, it properly budgeted \$[REDACTED] for Petitioner's RSDI income based on the information it had at the time. MDHHS subtracted the \$20.00 unearned income general exclusion to bring Petitioner's countable net income to \$[REDACTED] (Exhibit A, p. 25). BEM 541 (January 2023), p. 3. There was no evidence of other SSI-related MA income deductions.

MDHHS testified that Petitioner was over the income limit for Ad-Care MA, 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. 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 could not exceed \$1,235.00 per month for a fiscal group-size of one. RFT 242 (April 2023), p. 1. Petitioner's income exceeded this amount and therefore, she was not eligible for Ad-Care MA.

MDHHS approved Petitioner for G2C MA with a monthly deductible. G2C MA is a Group 2 MA category available to parents and other caretaker relatives who meet all financial and non-financial criteria for the program in the month being tested. BEM 135 (October 2015), p. 1. A caretaker relative is defined as a person who (i) lives with a dependent child; and (ii) is the parent of a dependent child or a core relative who acts as the parent for the dependent child. *Id.* Individuals are eligible for G2C MA coverage when net income (countable income minus allowable income deductions) does not exceed the applicable Group 2 needs in BEM 544 and the MA protected income level (PIL), which is based on shelter area and fiscal group size. The PIL is a set allowance for non-medical need items such as shelter, food and incidental expenses. BEM 135, p 1, 3; BEM 544 (July 2016), p 1-3; BEM 545 (January 2019); RFT 200 (April 2017); RFT 240 (December 2013), p 1.

In determining a person's eligibility and their fiscal group, the only income that may be considered is the person's own income and the income of the following persons who live with the client: the client's spouse, and the client's parents if the client is a child. This means that a child's income cannot be used to determine a parent's eligibility. BEM

211, p. 5. Additionally, for the G2C category, an adult's fiscal group is the adult and the adult's spouse.

MDHHS introduced a budget for G2C MA, which indicated that Petitioner's prorated income was \$ [REDACTED] and total net income was \$ [REDACTED] (Exhibit A, p. 24). BEM 536 lays out a multi-step process for calculating an individual's net income for G2C. BEM 536 (July 2019), pp. 1-7. Steps 1 through 4 concern earned income and earned income deductions. There was no evidence of earned income in this case. Steps 5 and 6 concern countable child support income. There was no evidence of child support income in this case. Step 7 concerns other unearned income. MDHHS must use the policies in BEM 500 and BEM 530 to calculate the fiscal group member's countable unearned income. For RSDI, countable unearned income is the gross amount received per month. MDHHS determined that Petitioner's gross RSDI income was \$ [REDACTED]0.

Step 8 provides that the applicant's total net income is the total of earned income, child support income and other earned income. In this case, there was no evidence of earned or child support income. Therefore, Petitioner's total net income was \$ [REDACTED]. Steps 9 and 10 concern deductions for court-ordered child support, and guardianship and conservator expenses, which were not applicable in this case. Step 11 requires MDHHS to determine dependents, which include the applicant's spouse and children. Petitioner was not married and did not report living with her children. If the applicant's number of dependents is zero, MDHHS skips to step 14, which concerns the Non-Parent Caretaker Relative's Prorate Divisor.

For eligibility based on G2C MA, MDHHS must determine the number of dependent children in the core relative's care. BEM 536, pp. 4-5. The record shows that Petitioner reported living with her three grandchildren (Exhibit A, pp. 7-8). Petitioner reported that she was a non-parent caregiver for the children (Exhibit A, p. 9). MDHHS determined that Petitioner had three dependent children in her care. For Step 15, MDHHS determines the prorated divisor by adding the number of dependent children and 2.9, which equals 5.9 in this case. Step 16 requires MDHHS to divide the applicant's total net income by the prorated divisor. Here, MDHHS divided \$ [REDACTED] by 5.9 to equal \$ [REDACTED] (dropping the cents). For adult applicants, this amount is considered to be the adult's own income. To determine the adult's fiscal group net income for adults with dependents, MDHHS multiplies the adult's own income by 2.9. Here, \$ [REDACTED] multiplied by 2.9 equals \$ [REDACTED] (dropping the cents). Therefore, MDHHS properly determined that Petitioner's net income for G2C MA was \$ [REDACTED] (Exhibit A, p. 24). There was no evidence of other applicable deductions.

To determine Petitioner's deductible for G2C MA, the PIL is subtracted from Petitioner's net income. The PIL for [REDACTED] County, where Petitioner resides, was \$375.00 during the applicable time period. Petitioner's net income of \$ [REDACTED] minus the PIL of \$375.00 equals \$ [REDACTED]. Therefore, MDHHS properly determined that Petitioner's monthly deductible was \$ [REDACTED]

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**.



**Linda Jordan**  
Administrative Law Judge

LJ/tm

**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 :**

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**Petitioner**

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