



GRETCHEN WHITMER
GOVERNOR

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

MARLON I. BROWN, DPA
ACTING DIRECTOR

████████████████████
██
████████████████████, MI ██████████

Date Mailed: December 1, 2023
MOAHR Docket No.: 23-006643
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 November 29, 2023, via conference line. Petitioner was present with his Authorized Hearing Representative (AHR) doctor ██████████ ██████████ and Arabic interpreter, Ruslan Khozouz. The Department of Health and Human Services (Department) was represented by Malat Fawaz, Eligibility 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 under the Healthy Michigan Plan (HMP) program.
2. On May 8, 2023, Petitioner completed a redetermination related to his MA case (Exhibit A, pp. 17-19).
3. Petitioner had income from employment (Exhibit A, pp. 20-23).

4. On October 11, 2023, the Department sent Petitioner a Health Care Coverage Determination Notice informing him that he was approved for MA coverage subject to a monthly deductible of \$2,534 (Exhibit A, pp. 9-12).
5. 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 under the HMP program. In May 2023, Petitioner completed a redetermination related to his MA benefit case. The Department determined that Petitioner was eligible under the Group 2 Under 21 (G2U) MA program with a monthly deductible of \$2,534.

The Department concluded that Petitioner was not eligible for HMP because his income exceeded the applicable income limit for his 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.

An individual's group size for MAGI-related purposes requires consideration of the client's tax filing status. In this case, Petitioner filed taxes and did not claim any dependents. Therefore, for HMP purposes, he has a household size of one. BEM 211 (January 2016), pp. 1-2.

138% of the annual FPL in 2023 for a household with one member is \$20,120. See <https://aspe.hhs.gov/poverty-guidelines>. The monthly income limit for a group size of

one is \$1,677. Therefore, to be income eligible for HMP, Petitioner's income cannot exceed \$20,120 annually or \$1,677 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, if an individual receives RSDI benefits and is a tax filer, all RSDI income is countable. BEM 503 (January 2019), p. 29.

Effective November 1, 2017, when determining eligibility for ongoing recipients of MAGI related MA, the State of Michigan has elected to base financial eligibility on current monthly income and family size. See:

https://www.michigan.gov/documents/mdhhs/MAGI-Based_Income_Methodologies_SPA_17-0100_-_Submission_615009_7.pdf

The Department presented the pay statements submitted by Petitioner (Exhibit A, pp. 20-23). Petitioner was paid on May 12, 2023, in the gross amount of \$[REDACTED]; on May 19, 2023, in the gross amount of \$[REDACTED]; on May 26, 2023, in the gross amount of \$[REDACTED]; and on June 2, 2023, in the gross amount of \$[REDACTED]. Petitioner had pretax deductions on each paycheck totaling \$[REDACTED]. Petitioner's total gross income reduced by the pretax deductions is \$[REDACTED], which exceeds the income limit under the HMP program.

At the hearing, Petitioner testified that his income fluctuates. Petitioner stated that he is often hospitalized and cannot work. As a result, his income is often lower than what was reflected on the pay stubs submitted to the Department.

When calculating MAGI in situations where income is difficult to predict because of unemployment, self-employment, commissions, or a work schedule that changes regularly, income should be estimated based upon past experiences, recent trends, possible changes in the workplace, and similar information. See: <https://www.healthcare.gov/income-and-household-information/how-to-report/>

Although Petitioner's income fluctuates, as of the June 2, 2023 pay statement, his year-to-date gross income was \$[REDACTED], with his pretax deductions totaling \$157.28. At the hearing, the Department testified that it reviewed the Work Number and determined

that Petitioner's current year to date income was \$[REDACTED]. Although the Work Number does not reflect any pretax deductions, Petitioner's pretax deductions are not significant enough to place him close to the income threshold. Therefore, the Department properly determined that Petitioner was not eligible for benefits under the HMP program.

The Department determined that Petitioner was eligible for MA benefits under the G2U program. G2U 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, p. 1; RFT 240, p. 1. The Department determined Petitioner had a fiscal group of 1. Petitioner's income of \$[REDACTED] reduced by the \$90 standard work expense results in a net income of \$[REDACTED]. BEM 536, p. 1.

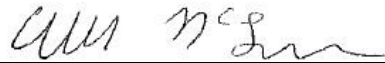
The deductible is in the amount that the client's net income (less any allowable needs deductions) exceeds the applicable Group 2 MA protected income levels (PIL); the PIL is based on the client's MA fiscal group size and the county in which she resides. BEM 105, p. 1; BEM 166, pp. 1-2; BEM 544 (January 2020), p. 1; RFT 240 (December 2013), p. 1; RFT 200 (April 2017), p. 2. The monthly PIL for a client in Petitioner's position, with an MA fiscal group size of one living in [REDACTED] County, is \$375 per month. RFT 200, p. 2; RFT 240, p. 1. Thus, if Petitioner's monthly net income (less allowable needs deductions) is in excess of \$375, he is eligible for MA assistance under the deductible program, with the deductible equal to the amount that his monthly net income, less allowable deductions, exceeds \$375. BEM 545 (July 2022), pp. 2-3. The Department presented a copy of the G2U related MA net income budget showing the calculation of Petitioner's monthly deductible (Exhibit A, p. 16).

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, there was no evidence that Petitioner resides in an adult foster care home or home for the aged. Therefore, Petitioner is not eligible for any remedial service allowances. Petitioner was not entitled to the COLA exclusion (for January through March only) of \$115. There was no evidence that Petitioner had any out-of-pocket medical insurance premiums. Therefore, the Department acted in accordance with policy when it did not reduce the net income by any insurance premiums. Petitioner's net income of \$[REDACTED] reduced by the \$375 PIL is \$[REDACTED]. Therefore, the Department properly determined that Petitioner is eligible for MA benefits under the G2U program subject to a monthly deductible of \$2,534.

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/tm



Ellen McLemore
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

