



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

Date Mailed: December 14, 2023

MOAHR Docket No.: 23-007490

Agency No.: [REDACTED]

Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm**

### **HEARING DECISION**

On October 17, 2023, Petitioner, [REDACTED] requested a hearing to dispute a Medical Assistance (MA) determination. As a result, a hearing was scheduled to be held on December 13, 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 Stephanie Armstrong, Assistance Payments Worker, appear as its representative. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 27-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 or disabled.
2. Petitioner does not have a spouse.
3. Petitioner lives with a dependent child.
4. Petitioner receives gross income of [REDACTED] per month from social security RSDI.

5. Petitioner has Medicare coverage.
6. Petitioner does not pay a premium for Medicare Part B coverage.
7. On July 3, 2023, Petitioner submitted information to the Department to renew her eligibility for MA.
8. Petitioner had been receiving full coverage MA through the Low-Income Family (LIF) program.
9. The Department reviewed Petitioner's case and determined that Petitioner was no longer eligible for full coverage MA through the LIF program because Petitioner's income exceeded the limit to be eligible. The Department also determined that Petitioner was not eligible for any other full coverage MA. The Department determined that the best MA that Petitioner was eligible for was MA with a monthly deductible.
10. On August 30, 2023, the Department mailed a health care coverage determination to Petitioner to notify Petitioner that she was no longer eligible for MA effective October 1, 2023.
11. On October 17, 2023, the Department mailed a health coverage determination to Petitioner to notify Petitioner that she was eligible for MA with a monthly deductible. The determination also notified Petitioner that she was eligible for limited coverage MA through the Plan First program.
12. The Department determined that Petitioner's monthly deductible amount was \$569.00.
13. 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.

Petitioner is disputing her health care coverage because she has a deductible, and she would like to have health care coverage without a deductible. Health care coverage is available without a deductible for those who meet program requirements. Petitioner previously had full coverage MA through the LIF program. The LIF program provides full coverage MA for clients who are either a parent or caretaker relative of a dependent child. BEM 110 (April 1, 2018). In order to qualify for full coverage MA through the LIF program, a client's household income must be under 54% of the Federal Poverty Level (FPL).

The household size is determined based on tax filer and tax dependent rules. BEM 211 (July 1, 2019), p. 1. For tax filers, the household size includes the tax filer, the tax filer's spouse, and all dependents claimed. *Id.* at 1-2. Here, Petitioner has a household two because Petitioner is not married, and Petitioner has one dependent.

The FPL for a household size of two in 2023 is \$19,720.00. 88 FR 3424 (January 19, 2023). Since the applicable FPL is \$19,720.00, 54% of the FPL is \$10,648.80. Thus, the income limit for Petitioner to be eligible for health care coverage through the LIF program is \$10,648.80 per year. Income eligibility is based on modified adjusted gross income (MAGI) for LIF. BEM 110. MAGI is defined as adjusted gross income increased by (1) excluded foreign income, (2) tax exempt interest, and (3) the amount of social security benefits excluded from gross income. 26 USC 36B(d)(2)(B). Adjusted gross income is that which is commonly used for Federal income taxes, and it is defined as gross income minus deductions for business expenses, losses on the sale or exchange of property, retirement contributions, and others. 26 USC 62.

The Department begins its income determination by examining a client's self-reported income. BEM 500 (April 1, 2022), p. 5. If the client's self-reported income is over the income limit, then the client is ineligible. *Id.* If the client's self-reported income is below the income limit, the Department compares the client's self-reported income to income obtained from trusted sources to determine if the two are compatible. *Id.* Income is compatible if the difference between the two is 10% or less. *Id.* If the two are compatible, then the Department uses the client's self-reported income. *Id.* If the two are not compatible and the income obtained from trusted sources is over the income limit, then the Department requires the client to provide proof of the self-reported income. *Id.* at p. 5-6.

Petitioner's income consists of her income from social security RSDI. Petitioner receives [REDACTED] per month from her social security RSDI. Petitioner's monthly income is equal to [REDACTED] per year, which exceeds the income limit of [REDACTED] per year for the LIF program. Thus, the Department properly found that Petitioner was not eligible for full coverage MA through the LIF program.

Another program that provides health care coverage without a deductible is 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 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 at p. 8. In this case, Petitioner's group just consists of Petitioner because Petitioner does not have a spouse. The FPL for a household size of one in 2023 is \$14,580.00. 88 FR 3424 (January 19, 2023).

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 the monthly income amount. 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.

Although the income limit for AD Care states that it is based on "net income," this refers to gross income after allowable deductions. BEM 163 at p. 2. The allowable deductions are set forth in BEM 541 for adults, and Petitioner was not eligible for any of the allowable deductions other than the \$20.00 disregard. Thus, Petitioner's countable net income was [REDACTED] per month, which equals [REDACTED] per year. Petitioner's countable net income exceeds to the income limit of \$14,580.00 for the AD Care program, so the Department properly found that Petitioner was not eligible for full coverage MA through the AD Care program.

Another program that provides health care coverage without a deductible is the Healthy Michigan Plan. However, Petitioner does not meet the program requirements for the Healthy Michigan Plan because Petitioner has Medicare, and coverage through the Healthy Michigan Plan is limited to individuals who do not qualify for Medicare. BEM 137 (June 1, 2020), p. 1. Thus, the Department properly found that Petitioner was not eligible for full coverage MA through the Healthy Michigan Plan.

Since the Department found Petitioner ineligible for health care coverage without a deductible, the Department determined that the best available coverage for Petitioner was Group 2 MA. 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. Countable income for Group 2 MA for caretaker relatives is determined by rules that prorate a client's income. BEM 536 (July 1, 2019), p. 1. A prorate divisor of 2.9 plus the number of dependents living with the client is used to prorate the client's income to the dependents. *Id.* at p. 4-5. Petitioner had one dependent, so Petitioner's prorate divisor was 3.9. Petitioner's countable net income for Group 2 MA for caretaker relatives was her gross social security RSDI of [REDACTED] per month, and \$337.00 of that amount was prorated to her dependent. Thus, Petitioner's share of her income was [REDACTED], which equals her countable monthly income.

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 Department calculated Petitioner's excess income by subtracting the protected income limit from Petitioner's countable monthly income. As stated above, Petitioner's countable monthly income was [REDACTED]. The protected income limit for a household of one in Saint Clair County was \$408.00 per month. RFT 200 (April 1, 2017) and RFT 240 (December 1, 2013). Petitioner has a household of one for purposes of Group 2 MA because the group size consists of the client and the client's spouse, and Petitioner did not have a spouse. BEM 211 at p. 8. 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 \$408.00, which equals [REDACTED] per month. The \$569.00 deductible amount determined by the Department is less than this amount, so the Department's deductible will be upheld.

Since Petitioner has a deductible, Petitioner will only be eligible for health care coverage for any month that her allowable medical expenses equal or exceed her deductible amount. Petitioner did not present any evidence to establish that she had allowable medical expenses that equaled or exceeded her deductible amount. If Petitioner has outstanding medical expenses that equal or exceed her deductible amount, Petitioner should provide documentation of those expenses to the Department to obtain health care coverage.

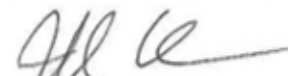
Lastly, the Department found Petitioner eligible for limited coverage through Plan First. Coverage through Plan First is limited because it only covers family planning services. The income limit for limited coverage through Plan First is 195% of the FPL. BEM 124 (July 1, 2023), p. 1. Petitioner's income was less than the income limit, so the Department properly found Petitioner eligible for limited coverage through Plan First.

### **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



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**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**  
Gary Leathorn - 74  
St Clair County DHHS  
220 Fort St.  
Port Huron, MI 48060  
**MDHHS-STCLAIR-HEARINGS@michigan.gov**

**Interested Parties**  
BSC2  
M Schaefer  
EQAD  
MOAHR

**Via First Class Mail:**

**Petitioner**  
[REDACTED]  
[REDACTED]  
[REDACTED], MI [REDACTED]