



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: January 11, 2024
MOAHR Docket No.: 23-007665
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

On October 31, 2023, Petitioner, [REDACTED] requested a hearing to dispute a Medical Assistance (MA) determination. As a result, a hearing was scheduled to be held on January 9, 2024, 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 Veronica Rumschlag, Hearing Facilitator, appear as its representative. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 36-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 is married to her spouse, [REDACTED]
3. Petitioner has two children, [REDACTED] (DOB [REDACTED]) and [REDACTED] (DOB [REDACTED]08). [REDACTED] is a full-time post-secondary student.

4. Petitioner files a joint tax return with her spouse, and Petitioner claims both [REDACTED] and [REDACTED] as dependents.
5. Petitioner received gross income of [REDACTED] per month from social security RSDI.
6. [REDACTED] received gross income of [REDACTED] per month from social security RSDI.
7. [REDACTED] was employed by [REDACTED]. [REDACTED] received the following weekly gross wages from his employment:
 - a. [REDACTED] paid September 8, 2023;
 - b. [REDACTED] paid September 15, 2023;
 - c. [REDACTED] paid September 22, 2023; and
 - d. [REDACTED] paid September 29, 2023.
8. [REDACTED] year-to-date gross earnings were [REDACTED] as of September 29, 2023.
9. Petitioner had Medicare coverage, and Petitioner's premium was covered by Medicare Savings Program coverage.
10. On September 9, 2023, Petitioner submitted an application to renew her household's MA eligibility. At the time, Petitioner's household was receiving the following MA:
 - a. Petitioner was receiving full coverage MA through AD Care, and Medicare Savings Program coverage;
 - b. [REDACTED] was receiving full coverage MA through the Healthy Michigan Plan;
 - c. [REDACTED] was receiving full coverage MA through the Healthy Michigan Plan; and
 - d. [REDACTED] was receiving full coverage MA through the Healthy Kids Expansion program.
11. During the renewal, the Department reviewed Petitioner's case and determined that Petitioner was no longer eligible for full coverage MA through AD Care and that Petitioner was no longer eligible for Medicare Savings Program coverage because Petitioner's income exceeded the income limit for both programs. The Department also determined that [REDACTED] and [REDACTED] were no longer eligible for full coverage MA through the Healthy Michigan plan because Petitioner's household income exceeded the program limit.

12. On October 5, 2023, the Department mailed a health care coverage determination notice to Petitioner to notify her that Petitioner was eligible for MA with a monthly deductible of \$2,178.00, [REDACTED] was eligible for full coverage MA for October 2023, and [REDACTED] was eligible for full coverage MA for October 2023.
13. On October 9, 2023, the Department mailed a health care coverage determination notice to Petitioner to notify her that Petitioner and [REDACTED] were not eligible for MA effective November 1, 2023.
14. The Department did not notify Petitioner of [REDACTED] eligibility for MA with a monthly deductible, and the Department did not notify Petitioner of [REDACTED] eligibility for MA.
15. 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 the Department's MA eligibility determination for each member of her household. I will address each member separately.

Caren

Prior to the Department's redetermination, Petitioner had full coverage MA through the AD Care program, and Petitioner had Medicare Savings Program coverage. After the redetermination, the Department found that Petitioner was only eligible for MA with a monthly deductible. Petitioner is disputing the Department's MA determination. Petitioner believes that she should be eligible for full coverage MA and Medicare Savings Program coverage.

Health care coverage without a deductible is available through various programs. One of those programs 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 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 (October 1, 2023), p. 8. In this case, Petitioner's group consists of two since Petitioner has a spouse. The FPL for a household size of two in 2023 was \$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 the unearned 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.

Petitioner's spouse received earned income from his employment. The gross amount received from employment is countable. BEM 500 (April 1, 2022), p. 3. Petitioner's spouse received income of [REDACTED] in September 2023. Petitioner is eligible for a \$65.00 disregard from her spouse's earned income, plus 1/2 of the remaining balance of her spouse's earned income. BEM 541 at p. 3. Thus, [REDACTED] should be disregarded, which leaves a countable amount of [REDACTED] per month.

Petitioner's total countable income is [REDACTED] which consists of the [REDACTED] per month in countable RSDI income plus [REDACTED] per month in countable earned income.

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 unearned income disregard and the \$65.00 plus 1/2 earned income disregard. Petitioner'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 income was [REDACTED] per month. Therefore, the Department properly found that Petitioner was ineligible for full coverage AD Care.

Since the Department found Petitioner ineligible for health care coverage without a deductible under the AD Care program, the Department properly determined that the best available coverage for Petitioner was Group 2 MA. Group 2 MA is available to clients who are aged or disabled and ineligible for full coverage AD Care. BEM 166 (April 1, 2017), p. 1. 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. *Id.* at p. 2.

Regarding the Medicare Savings Program coverage, the Department found Petitioner's income exceeded the income limit to be eligible for Medicare Savings Program coverage, so the Department found Petitioner ineligible for Medicare Savings Program coverage. There are three different types of Medicare Savings Program coverage: QMB, SLMB, and ALMB. BEM 165 (October 1, 2022), p. 1. QMB pays for Medicare

premiums, Medicare coinsurances, and Medicare deductibles. *Id.* at p. 2. SLMB only pays Medicare Part B premiums. *Id.* ALMB only pays Medicare Part B premiums if there is sufficient funding available. *Id.* Thus, QMB is the best coverage, SLMB is the next best coverage, and ALMB is the lowest level of coverage. The type of Medicare Saving Program coverage a client is eligible for is determined based on income. The income limit for QMB is the same as for full coverage AD Care. *Id.* at p. 1. The income limit for SLMB is 120% of the FPL. *Id.* The income limit for ALMB is 135% of the FPL. *Id.*

As discussed above, Petitioner's monthly income was [REDACTED]. Petitioner's income exceeded 135% of the FPL, so the Department properly found Petitioner ineligible for Medicare Savings Program coverage.

[REDACTED]

Prior to the Department's redetermination, [REDACTED] had full coverage MA through the Healthy Michigan Plan. After the redetermination, the Department found [REDACTED] was only eligible for MA with a monthly deductible. Petitioner is disputing the Department's MA determination. Petitioner believes that [REDACTED] should be eligible for full coverage MA.

Health care coverage without a deductible is available through various programs. One of those programs is the Healthy Michigan Plan. In order for an individual to be eligible for health care coverage under the Healthy Michigan Plan, the individual must be age 19 to 64 and the individual's household income must not exceed 133% of the FPL. BEM 137 (June 1, 2020), p. 1. However, a 5% disregard is available to make those individuals eligible who would otherwise not be eligible. BEM 500 (April 1, 2022), p. 5. The 5% disregard increases the income limit by an amount equal to 5% of the FPL for the group size. *Id.* at 5.

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, [REDACTED] has a household size of four because [REDACTED] is married, and they claim two dependents on their tax return.

The FPL for a household size of four in 2023 was \$30,000.00. 88 FR 3424 (January 19, 2023). Since the applicable FPL is \$30,000.00, 133% of the FPL is \$39,900, and 133% with a 5% disregard is \$41,400.00. Thus, the income limit for Petitioner to be eligible for health care coverage under the Healthy Michigan Plan is \$41,400.00 per year. Income eligibility is based on modified adjusted gross income (MAGI) for Healthy Michigan. BEM 137, p. 1 and 7 CFR 435.603. 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 at 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.

Here, [REDACTED] household income is composed of his income from employment, Petitioner's income from RSDI, and [REDACTED] income from RSDI. [REDACTED] received [REDACTED] in September 2023, so that will be used as his monthly income. Petitioner received [REDACTED] per month from RSDI, and [REDACTED] received [REDACTED] per month from RSDI. Thus, [REDACTED] total household income is [REDACTED] per month, which equals [REDACTED] per year. [REDACTED] total household income exceeded the Healthy Michigan Plan income limit of \$41,400.00, so the Department properly found [REDACTED] ineligible for health care coverage under the Healthy Michigan Plan.

Since the Department found [REDACTED] ineligible for health care coverage without a deductible under the AD Care program, the Department properly determined that the best available coverage for [REDACTED] was Group 2 MA. Group 2 MA is available to clients who are parents or other caretaker relatives who have a dependent child. BEM 135 (October 1, 2015), p. 1. Group 2 MA provides health care coverage for any month that net income does not exceed the Group 2 needs in BEM 544. *Id.* at p. 2.

[REDACTED]

Prior to the Department's redetermination, [REDACTED] had full coverage MA through the Healthy Michigan Plan. After the redetermination, the Department found [REDACTED] was ineligible for MA. Petitioner is disputing the Department's MA determination. Petitioner believes that [REDACTED] should be eligible for full coverage MA.

[REDACTED] is properly considered part of Petitioner's household under the Healthy Michigan Plan because the Healthy Michigan Plan follows tax dependency rules, and [REDACTED] is Petitioner's tax dependent. Since [REDACTED] is part of Petitioner's household, [REDACTED] is subject to the same group size and income as [REDACTED]. As discussed above, [REDACTED] did not meet the income requirement to be eligible for full coverage MA through the Healthy Michigan Plan. Since [REDACTED] did not meet the income requirement to be eligible for full coverage MA through the Healthy Michigan Plan, and since [REDACTED] is subject to the same group size and income requirement, [REDACTED] does not meet the income requirement either. Therefore, the Department properly found [REDACTED] ineligible for health care coverage under the Healthy Michigan Plan.

██████████

Prior to the Department's redetermination, ██████████ had full coverage MA through the Healthy Kids Expansion program. It is unclear what MA ██████████ had after the Department's redetermination because the Department's health care coverage determinations did not address ██████████

The Healthy Kids Expansion program provides full coverage MA to eligible children. BEM 131 (January 1, 2022), p. 1. In order for an individual to be eligible for health care coverage under the Healthy Kids Expansion program, the individual must be under age 19, and the individual's household income must not exceed 160% of the FPL. *Id.* The Healthy Kids Expansion program is based on MAGI like the Healthy Michigan Plan. *Id.* Thus, the applicable income is the same income that was used to determine ██████████ eligibility for coverage under the Healthy Michigan Plan. That income amount was ██████████ which is less than 160% of the FPL. Therefore, ██████████ is eligible for full coverage MA through the Healthy Kids Expansion program.

Summary

Petitioner is ineligible for full coverage MA and Medicare Savings Program coverage. The best MA that Petitioner is eligible for is MA with a monthly deductible. ██████████ is ineligible for full coverage MA. The best MA that ██████████ is eligible for is MA with a monthly deductible. ██████████ is ineligible for any MA. ██████████ is eligible for full coverage MA through the Healthy Kids Expansion program.

The Department's determination is partially reversed because the Department did not properly address ██████████ eligibility for MA with a monthly deductible, and the Department did not properly address ██████████ eligibility for MA through the Healthy Kids Expansion program. The Department should have notified Petitioner that ██████████ was eligible for MA with a monthly deductible when the Department issued its health care coverage determination notices, and the Department should have notified Petitioner that ██████████ was eligible for full coverage MA through the Healthy Kids Expansion program when the Department issued its health care coverage determination notices. The Department must properly notify Petitioner of ██████████ and ██████████ eligibility.

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 properly determined Petitioner, ██████████ and ██████████ were ineligible for full coverage Medical Assistance, the Department properly determined that Petitioner was ineligible for Medicare Savings Program coverage, and the Department properly determined that Petitioner was eligible for Medical Assistance with a monthly deductible. The Department did not properly address ██████████ eligibility for Medical Assistance with a monthly deductible, and the Department did not properly address ██████████ eligibility for full coverage Medical Assistance.

IT IS ORDERED that the Department's decision is **AFFIRMED IN PART** with respect to the Department's determination that Petitioner, [REDACTED] and [REDACTED] were ineligible for full coverage Medical Assistance, the Department's determination that Petitioner was ineligible for Medicare Savings Program coverage, and the Department's determination that Petitioner was eligible for Medical Assistance with a monthly deductible. The Department's decision is **REVERSED IN PART** with respect to the Department's failure to determine [REDACTED] eligibility for Medical Assistance with a monthly deductible, and the Department's failure to determine [REDACTED] eligibility for full coverage Medical Assistance.

The Department shall determine [REDACTED] eligibility for Medical Assistance with a monthly deductible, and the Department shall determine [REDACTED] eligibility for full coverage Medical Assistance. The Department make a determination consistent with this decision, and the Department shall mail a health care coverage determination notice to Petitioner with the Department's determination. 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
Kimberly Kornoelje
Kent County DHHS
121 Martin Luther King Jr St SE
Grand Rapids, MI 49507
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Interested Parties

BSC3
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Via First Class Mail:

Petitioner

[REDACTED]
[REDACTED]
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