



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

██████████
**44969 76TH AVENUE
DECATUR, MI 49045**

Date Mailed: January 12, 2024
MOAHR Docket No.: 23-008201
Agency No.: 100315496
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

On November 6, 2023, Petitioner, ██████████ requested a hearing to dispute a Medical Assistance (MA) determination. As a result, a hearing was scheduled to be held on January 11, 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 Kristy Janssen, Assistance Payments Supervisor, appear as its representative. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. An 89-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 not married.
3. Petitioner received gross income of ██████████ per month from Social Security RSDI prior to the 2024 cost of living adjustment, and Petitioner paid a Medicare Part B premium of \$164.90 prior to the 2024 adjustment.

4. Petitioner began receiving gross income of [REDACTED] per month from Social Security RSDI after the 2024 cost of living adjustment, and Petitioner paid a Medicare Part B premium of \$174.70 after the adjustment.
5. Petitioner receives gross earned income of approximately [REDACTED] per month from her employment at [REDACTED]
6. Petitioner receives gross unearned income of approximately [REDACTED] per month for child support.
7. On August 21, 2023, Petitioner submitted information to the Department to renew her eligibility for MA. Prior to Petitioner's redetermination of eligibility, Petitioner had MA through the Healthy Michigan Plan.
8. On September 25, 2023, the Department mailed a verification checklist to Petitioner to obtain information to determine her eligibility for MA. The verification checklist instructed Petitioner to provide bank statements for specific accounts by October 5, 2023.
9. The Department did not receive the bank statements from Petitioner by October 5, 2023, as instructed.
10. On November 1, 2023, the Department mailed a health care coverage determination notice to Petitioner to notify her that she was no longer eligible for full coverage MA effective October 1, 2023.
11. The Department subsequently found Petitioner eligible for MA with a monthly deductible. The Department found Petitioner eligible for MA with a monthly deductible of \$2,205.00 for December 2023, and the Department found Petitioner eligible for MA with a monthly deductible of \$2,197.00 effective January 1, 2024, ongoing.
12. 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.

Prior to Petitioner's redetermination, Petitioner had full coverage MA through the Healthy Michigan Plan. 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 Petitioner ineligible for full coverage MA through the Healthy Michigan Plan.

Another program that provides full coverage MA 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 one 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). This is equal to a monthly income of \$1,215.00.

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 unearned income such as Social Security RSDI income. BEM 541 (January 1, 2023), p. 1. In this case, Petitioner received [REDACTED] per month from Social Security RSDI at the time of her redetermination. After the \$20.00 disregard, the countable amount of her Social Security RSDI was [REDACTED] per month. Petitioner also received unearned income of [REDACTED] per month from child support. Thus, Petitioner's total countable unearned income was [REDACTED] per month.

Petitioner also received earned income from her employment. Petitioner received [REDACTED] per month. Petitioner is eligible for an earned income disregard of \$65.00 plus 1/2 of the remaining balance. BEM 541 (April 1, 2022), p. 3. Thus, Petitioner is eligible for a total disregard of \$838.00, which means that her total countable earned income is [REDACTED] per month.

Petitioner's total countable income is [REDACTED] per month, which consists of her countable unearned income of [REDACTED] per month plus her countable earned income of [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 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 \$1,215.00 per month, and Petitioner's income was [REDACTED] per month. Therefore, the

Department properly found that Petitioner was ineligible for full coverage MA through the AD Care program.

Since the Department found Petitioner ineligible for full coverage MA under the Healthy Michigan Plan and AD Care, the Department 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. 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 is the same as the income that is used to determine eligibility for full coverage AD Care. 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 and the Medicare Part B premium 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 [REDACTED] County was \$391.00 per month. RFT 200 (April 1, 2017) and RFT 240 (December 1, 2013). Petitioner paid a Medicare Part B premium of \$164.90 per month, so Petitioner gets a deduction for the premium. There was no evidence that Petitioner paid any other health insurance premiums or allowable remedial care expenses. Thus, Petitioner's excess income was [REDACTED] minus \$391.00, minus \$164.90, which equals [REDACTED] per month. The Department determined that Petitioner's monthly deductible was \$2,205.00 due to a rounding difference, and since the Department's monthly deductible was less, it will be upheld. Effective, January 1, 2024, Petitioner's monthly deductible will be adjusted due to her increased Medicare Part B premium.

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.

At one point, the Department closed Petitioner's MA because the Department determined that Petitioner did not provide verification of a bank account as instructed. On September 25, 2023, the Department mailed a verification checklist to Petitioner to instruct Petitioner to provide the verification to the Department by October 5, 2023. Petitioner did not present any evidence to establish that she provided the verification by October 5, 2023. Additionally, Petitioner did not present any evidence that she would

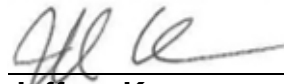
have met her monthly deductible for the month(s) that she was without coverage, so any loss of coverage was harmless.

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



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
Jennifer Weston
Van Buren County DHHS
57150 Cty. Rd. 681
Hartford, MI 49051
MDHHS-VanBuren-Hearings@michigan.gov

Interested Parties

BSC3
M Schaefer
EQAD
MOAHR

Via First Class Mail:

Petitioner

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