



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 12, 2024
MOAHR Docket No.: 23-008275
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

On November 8, 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 11, 2024, pursuant to MCL 400.9; 42 CFR 431.200 to 431.250; and Mich Admin Code, R 792.11002. Petitioner appeared with her spouse, [REDACTED] Respondent, Department of Health and Human Services (Department), had Carrie Weeks, Family Independence Manager, appear as its representative. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 94-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.
3. Petitioner received gross income of [REDACTED] per month from Social Security RSDI prior to the 2024 cost of living adjustment.

4. Petitioner's spouse received gross income of [REDACTED] per month from Social Security RSDI prior to the 2024 cost of living adjustment, and Petitioner's spouse paid a Medicare Part B premium of \$164.90 per month prior to the 2024 adjustment.
5. On October 3, 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.
6. On October 12, 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 proof of all assets by October 23, 2023.
7. On October 23, 2023, Petitioner provided the Department with proof of all assets as instructed. Petitioner provided proof of the following assets:
 - a. 2004 Chevrolet Suburban 1500;
 - b. 2010 Buick Enclave;
 - c. [REDACTED] Bank statement for account [REDACTED] with an ending balance of \$166.40 as of October 13, 2023;
 - d. A [REDACTED] statement showing a \$9,420.40 balance due on a 2013 ELR by Forest River Hyper (travel trailer);
 - e. 1993 Ultrastar (camper);
 - f. 2004 Chevrolet Silverado 2500 HD Crew Cab;
 - g. A [REDACTED] statement for account [REDACTED] with an ending balance of \$138.44 as of September 30, 2023; and
 - h. 2005 Harley Davidson Ultra Classic Electra Glide.
8. The Department reviewed the proof of assets that Petitioner provided, and the Department determined that Petitioner had countable assets totaling \$6,617.96.
9. On October 24, 2023, the Department mailed a health care coverage determination notice to Petitioner to notify her that she was no longer eligible for MA effective November 1, 2023, because her income exceeded the limit to be eligible for MA.
10. Petitioner requested a hearing to dispute the Department's decision.
11. Subsequently, the Department met with Petitioner. The Department determined that it could find Petitioner eligible for full coverage MA through the Healthy Michigan Plan for the month of November. The Department then determined that

Petitioner would be eligible for MA with a monthly deductible effective December 1, 2023.

12. On November 28, 2023, the Department mailed a health care coverage determination notice to Petitioner to notify her that she was eligible for MA with a monthly deductible of \$3,112.00 effective December 1, 2023.

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.

Prior to Petitioner's redetermination, Petitioner had full coverage MA through the Healthy Michigan Plan. The Healthy Michigan Plan provides full coverage for eligible adults. An individual must not be qualified for MA through another program to be eligible for MA through the Healthy Michigan Plan. BEM 137 (January 1, 2024). Petitioner was qualified for MA through another program because Petitioner was aged or disabled, and an aged or disabled individual is qualified for MA through either AD Care or Group 2 MA for the Aged, Blind, and Disabled. Since Petitioner was qualified for MA through another program, the Department properly found Petitioner ineligible for full coverage MA through the Healthy Michigan Plan.

Additionally, Petitioner's income exceeded the limit to be eligible for MA through the Healthy Michigan Plan, so Petitioner would have been ineligible even if she wasn't qualified for MA through another program. In order for an individual to be eligible for full coverage MA through the Healthy Michigan Plan, the individual must be age 19 to 64 and the individual's household income must not exceed 133% of the Federal Poverty Limit (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, Petitioner has a household two because Petitioner is married.

The FPL for a household size of two in 2023 was \$19,720.00. 88 FR 3424 (January 19, 2023). Since the applicable FPL is \$19,720.00, 133% of the FPL is \$26,227.60, and 133% with a 5% disregard is \$27,213.60. Thus, the maximum applicable income limit was \$27,213.60. 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.

Petitioner received [REDACTED] per month from Social Security RSDI at the time of her redetermination, and Petitioner's spouse received [REDACTED] from Social Security RSDI at the time of the redetermination, so Petitioner's total household income was [REDACTED] per month. The annualized amount of Petitioner's total household income was [REDACTED], which exceeded the limit to be eligible for MA through the Healthy Michigan Plan. 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 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 because 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 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, and Petitioner's spouse received [REDACTED] from Social Security RSDI at the time of the redetermination. After the \$20.00 disregard, the countable amount of their Social Security RSDI 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 unearned 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 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 two in [REDACTED] County was \$500.00 per month. RFT 200 (April 1, 2017) and RFT 240 (December 1, 2013). Petitioner's spouse 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 \$500.00, minus \$164.90, which equals [REDACTED] per month. The Department determined that Petitioner's monthly deductible was [REDACTED] due to a rounding difference, and since the Department's monthly deductible was less, it 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.

The Department presented contradictory evidence about Petitioner's assets. The Department first testified that the Department determined that Petitioner's assets were over the limit, so the Department denied her MA coverage. However, it appears that the Department never actually denied Petitioner MA coverage for having assets that were over the limit. Based on the evidence presented, Petitioner had full coverage MA

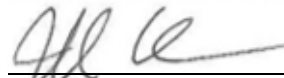
through the Healthy Michigan Plan through the end of November 2023, and then Petitioner was eligible for MA with a monthly deductible beginning December 1, 2023. Since Petitioner was never actually denied MA coverage for having assets that were over the limit, I will not address whether the Department properly determined that Petitioner's assets were over the limit.

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

Garilee Janofski
Gratiot County DHHS
201 Commerce Dr
Ithaca, MI 48847

MDHHS-Gratiot-Hearings@michigan.gov

Interested Parties

BSC2
M Schaefer
EQAD
MOAHR

Via First Class Mail:

Petitioner

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