



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
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: March 25, 2024
MOAHR Docket No.: 23-008517
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: L. Alisyn Crawford

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 March 6, 2024, via telephone conference line. Petitioner appeared at the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Rebecca Scott, Eligibility Specialist.

ISSUE

Did the Department properly determine Petitioner's and her husband's Medical Assistance (MA) eligibility?

Did the Department properly deny Petitioner's and her husband's request for Medicare Saving Program (MSP) benefits?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On [REDACTED] 2023, Petitioner applied for MA and MSP for herself and her husband (Husband).
2. Petitioner is married. She files taxes jointly with Husband and claims no dependents.
3. Petitioner is [REDACTED] years old, and Husband is [REDACTED] years old.

- Petitioner's household income from Retirement, Survivors, and Disability Insurance (RSDI) and pensions include the following:

Petitioner's Monthly Income

RSDI [REDACTED]

Husband's Monthly Income

RSDI [REDACTED]
Pension #1 [REDACTED]
Pension #2 [REDACTED]

- On September 19, 2023, the Department sent a Health Care Coverage Determination Notice (HCCDN) notifying Petitioner that based on her and Husband's income she was eligible for MA under Group 2 SSI-related (G2S) with a \$2,246 monthly deductible and Plan First Family Planning (PFFP).
- On November 16, 2023, the Department sent a HCCDN notifying Petitioner that she and Husband were not eligible for a Medicare Savings Program (MSP) due to their income exceeding the income limit.
- On November 29, 2023, the Department received Petitioner's hearing request disputing the Department's 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 (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.

Upon reviewing Petitioner's eligibility criteria, MDHHS concluded that Petitioner was eligible for MA coverage under the G2S and PFFP MA programs. Petitioner disputes this coverage.

MA is available (i) under SSI-related categories to individuals who are aged (65 or older), blind or disabled, (ii) to individuals who are under age 19, parents or caretakers

of children, or pregnant or recently pregnant women, (iii) to individuals who meet the eligibility criteria for Healthy Michigan Plan (HMP) coverage, and (iv) to individuals who meet the eligibility criteria for Plan First Medicaid (PF-MA) coverage. 42 CFR 435.911; 42 CFR 435.100 to 435.172; BEM 105 (January 2021), p. 1; BEM 137 (June 2020), p. 1; BEM 124 (July 2023), p. 1. Under federal law, an individual eligible under more than one MA category must have eligibility determined for the category selected and is entitled to the most beneficial coverage available, which is the one that results in eligibility and the least amount of excess income or the lowest cost share. BEM 105 (January 2021), p. 2; 42 CFR 435.404.

Because Petitioner and Husband were over age 65 and a Medicare recipient, and there was no evidence that Petitioner was the parent or caretaker of a minor child, Petitioner was eligible for MA only under an SSI-related category. In determining the SSI-related MA category Petitioner is eligible for, MDHHS must determine Petitioner's MA fiscal group size and net income. As a married individual, Petitioner has a fiscal group size for SSI-related MA purposes of two. BEM 211 (July 2019), p. 8. The fiscal group's net income for MA purposes is the sum of (i) Petitioner's and Husband's RSDI unearned income of [REDACTED] and [REDACTED] and (ii) Husband's pension payments of [REDACTED] and [REDACTED]. Unearned income is reduced by a \$20 disregard, which results in net income of [REDACTED] per month. BEM 541 (January 2023), p. 3.

Based on this net income, Petitioner has excess income for eligibility under the AD-Care program, the full-coverage SSI-related MA program, which has an income limit of [REDACTED] for a two-person fiscal group. BEM 163 (July 2017), p. 2; RFT 242 (April 2023), p. 1; <https://aspe.hhs.gov/poverty-guidelines>. However, clients who are ineligible for full-coverage MA coverage because of excess income may still be eligible for SSI-related MA under a Group 2 SSI (G2S) program, which provides for MA coverage with a monthly deductible. BEM 105, p. 1. The deductible is in the amount that a client's net income (less any allowable needs deductions) exceeds the applicable Group 2 MA protected income levels (PIL). The PIL is a set amount identified in policy based on the client's MA fiscal group size and county of residence. BEM 105, p. 1; BEM 166 (April 2017), 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 two living in [REDACTED] County, is \$500 per month. RFT 200, p. 2; RFT 240, p. 1.

Thus, Petitioner is eligible for MA assistance under the deductible program, with the deductible equal to the amount of the monthly net income, less allowable deductions, exceeding \$500 per month. BEM 545 (July 2022), pp. 2-3.

The Department presented an SSI-related MA budget showing the calculation of Petitioner's deductible that was reviewed on the record. (Exhibit A, pp. 16-17). 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, Petitioner and Husband do not reside in an adult foster care home or home for the aged and, as such, is not eligible for any remedial service allowances. The following health insurance premiums were paid by Petitioner and Husband: \$164.90 for Part B Premiums for both Petitioner and Husband. Petitioner's allowable needs deduction for health insurance totaled \$329.80. Petitioner's and Husband's monthly net income of [REDACTED] reduced by allowable needs deductions of \$329.80 and by the \$500 PIL results in a deductible of \$2,248. Thus, MDHHS properly determined Petitioner's eligibility for SSI-related MA with a monthly deductible.

Petitioner also disputed the denial of MSP coverage for herself and Husband. There are three categories of MSP benefits including the Qualified Medicare Beneficiary (QMB), the Special Low Income Medicare Beneficiary (SLMB), and the Additional Low Income Medicare Beneficiary (ALMB). QMB pays Medicare premiums, coinsurances, and deductibles. SLMB pays Medicare Part B premiums. ALMB pays Medicare Part B premiums provided funding is available. BEM 165 (October 2022), pp. 2-4.

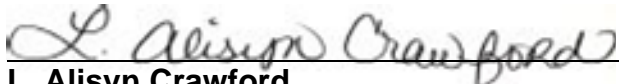
Like AD-Care, income eligibility for MSP exists when a client's income is within the limits established by policy. BEM 165 (October 2022), p. 8. With a fiscal group size of two, the income limits for MSP are as follows: (i) QMB - \$1,663.50; (ii) SLMB - \$1,663.51 to \$1,992.00; and (iii) ALMB - \$1,992.01 to 2,238.50. RFT 242 (April 2023) p. 1. Therefore, based on the MSP income limits and Petitioner's net income of [REDACTED] the Department properly denied Petitioner's and Husband's MSP benefits due to excess income.

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 and denied MSP.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

LC/ml



L. Alisyn Crawford
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
Tracy Felder
Wayne-Southwest-DHHS
2524 Clark Street
Detroit, MI 48209
MDHHS-Wayne-41-Hearings@michigan.gov

Interested Parties
M Schaefer
EQAD

Via First Class Mail:

Petitioner
[REDACTED]
MI [REDACTED]