



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: January 4, 2024
MOAHR Docket No.: 23-009002
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

On September 28, 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 3, 2024, pursuant to MCL 400.9; 42 CFR 431.200 to 431.250; and Mich Admin Code, R 792.11002. Petitioner's spouse, [REDACTED] appeared at the hearing on Petitioner's behalf. Respondent, Department of Health and Human Services (Department) had Amber Gibson, Hearing Facilitator, appear as its representative. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 17-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 disabled.
2. Petitioner is married, and Petitioner and his spouse have guardianship of two minor grandchildren that live in their home.
3. Petitioner received gross income of [REDACTED] per month from Social Security RSDI.

4. On September 13, 2023, Petitioner submitted information to the Department to renew his eligibility for MA. Petitioner was receiving full coverage MA through the Healthy Michigan Plan at the time.
5. The Department reviewed Petitioner's case and determined that Petitioner was no longer eligible for full coverage MA through the Healthy Michigan Plan because Petitioner was disabled and eligible for MA through another program.
6. On September 15, 2023, the Department mailed a health care coverage determination to Petitioner to notify Petitioner that he was no longer eligible for MA effective October 1, 2023.
7. The Department did not determine Petitioner's eligibility for MA through other programs when the Department determined that Petitioner was no longer eligible for MA through the Healthy Michigan Plan.
8. Petitioner requested a hearing to dispute the Department's MA eligibility determination.
9. The Department reinstated Petitioner's full coverage MA through the Healthy Michigan Plan pending his hearing.

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 decision to find him ineligible for 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). The Department determined that Petitioner was qualified for MA through another program because Petitioner was disabled. A disabled individual is qualified for MA through either AD Care or Group 2 MA for the Aged, Blind, and Disabled. Since the Department determined that Petitioner was qualified for MA through another program, the Department properly found Petitioner ineligible for full coverage MA through the Healthy Michigan Plan.

Full coverage MA is available through the AD Care program for eligible clients. 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 size is two because Petitioner has a spouse. The FPL for a household size of two in 2023 is \$19,720.00. 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 the income limit of \$19,720.00 for the AD Care program, so the Department properly found that Petitioner was not eligible for full coverage MA through the AD Care program.

Since Petitioner is not eligible for full coverage MA through the AD Care program, Petitioner is eligible for MA with a monthly deductible. Petitioner is eligible for MA with a monthly deductible under Group 2 MA for the Aged, Blind, and Disabled, and Petitioner may be eligible for MA with a monthly deductible under the Group 2 MA for Caretaker Relatives since Petitioner and his spouse provide care for their two grandchildren. The Department shall determine Petitioner's eligibility under both programs, and the Department shall find Petitioner eligible for the program that is most beneficial to Petitioner.

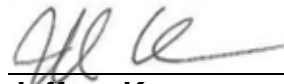
The Department's decision is reversed because the Department did not determine Petitioner's eligibility for MA with a monthly deductible when the Department determined that Petitioner was no longer eligible for full coverage MA through the Healthy Michigan Plan. The Department properly determined that Petitioner was not eligible for full coverage MA through the Healthy Michigan Plan, but the Department did not find Petitioner eligible for MA with a monthly deductible when Petitioner was eligible for MA with a monthly deductible. The Department should have found Petitioner eligible for the best MA program that he was eligible for when the Department found Petitioner ineligible for full coverage MA through the Healthy Michigan Plan.

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 not 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 **REVERSED**. The Department shall redetermine Petitioner eligibility for MA with a monthly deductible consistent with this decision. 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
Amber Gibson
Ingham County DHHS
5303 South Cedar
Lansing, MI 48911
MDHHS-Ingham-Hearings@michigan.gov

Interested Parties

BSC2
M Schaefer
EQAD
MOAHR

Via First Class Mail:

Authorized Hearing Rep.

[REDACTED]
MI [REDACTED]

Petitioner

[REDACTED]
MI [REDACTED]