



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA
DIRECTOR

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

Date Mailed: February 29, 2024
MOAHR Docket No.: 23-009576
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 February 26, 2023, via conference line. Petitioner was present and was unrepresented. The Department of Health and Human Services (Department) was represented by Raven Douthard, Hearing Facilitator.

ISSUE

Did the Department properly determine Petitioner's and Petitioner's wife's Medical Assistance (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 and his wife were ongoing MA recipients.
2. On November 9, 2023, Petitioner completed a redetermination related to his and his wife's MA benefit case (Exhibit A, pp. 13-16).
3. On December 7, 2023, the Department sent Petitioner a Health Care Coverage Determination Notice informing him that his MA benefit case was closing effective January 1, 2024, ongoing, and his wife was approved for MA benefits under the limited coverage Plan First MA program (Exhibit A, pp. 5-9).

4. Effective January 1, 2024, the Department reinstated Petitioner's MA benefit case and approved him for MA benefits with a monthly deductible of \$2,741 (Exhibit A, p. 21).
5. Petitioner had unearned income in the form of Retirement, Survivors and Disability Insurance in the gross amount of \$ [REDACTED] (Exhibit A, pp. 10-12).
6. Petitioner's wife had income from employment.
7. On December 20, 2023, Petitioner submitted a request for hearing disputing the Department's actions.

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.

In this case, Petitioner and his wife were ongoing MA recipients. In November 2023, Petitioner completed a redetermination related to his and his wife's MA benefit cases. The Department determined that Petitioner's wife was only eligible under the limited coverage Plan First MA program. The Department also determined that Petitioner was eligible for MA benefits with a monthly deductible of \$2,741.

The Department concluded that Petitioner's wife was not eligible for HMP because her income exceeded the applicable income limit for her group size. HMP uses a Modified Adjusted Gross Income (MAGI) methodology. BEM 137 (October 2016), p. 1. An individual is eligible for HMP if his household's income does not exceed 133% of the Federal Poverty Level (FPL) applicable to the individual's group size. BEM 137, p. 1. Additionally, for MAGI-related MA programs, the Department allows a 5 percent disregard in the amount equal to five percent of the FPL level for the applicable family size. BEM 500 (July 2017), p. 5. It is not a flat 5 percent disregard from the income. BEM 500, p. 5. The 5 percent disregard is applied to the highest income threshold. BEM 500, p. 5. The 5 percent disregard shall be applied only if required to make someone eligible for MA benefits. BEM 500, p. 5.

An individual's group size for MAGI-related purposes requires consideration of the client's tax filing status. In this case, Petitioner testified that he and his wife file taxes and that they claim Petitioner's elderly mother as a dependent. Therefore, for purposes of HMP, Petitioner's wife has a group size of three. BEM 211 (January 2016), pp. 1-2.

138% of the annual FPL in 2023 for a household with three members is \$34,307. See <https://aspe.hhs.gov/poverty-guidelines>. The monthly income limit for a group size of three is \$2,859. Therefore, to be income eligible for HMP, Petitioner's income cannot exceed \$34,307 annually or \$2,859 monthly. To determine financial eligibility under HMP, income must be calculated in accordance with MAGI under federal tax law. BEM 500 (July 2017), p. 3. MAGI is based on Internal Revenue Service rules and relies on federal tax information. BEM 500, p. 3. Income is verified via electronic federal data sources in compliance with MAGI methodology. MREM, § 1.

In order to determine income in accordance with MAGI, a client's adjusted gross income (AGI) is added to any tax-exempt foreign income, Social Security benefits, and tax-exempt interest. AGI is found on IRS tax form 1040 at line 37, form 1040 EZ at line 4, and form 1040A at line 21. Alternatively, it is calculated by taking the "federal taxable wages" for each income earner in the household as shown on the paystub or, if not shown on the paystub, by using gross income before taxes reduced by any money the employer takes out for health coverage, childcare, or retirement savings. See <https://www.healthcare.gov/income-and-household-information/how-to-report/>. For MAGI MA benefits, if an individual receives RSDI benefits and is a tax filer, all RSDI income is countable. BEM 503 (January 2019), p. 29.

Effective November 1, 2017, when determining eligibility for ongoing recipients of MAGI related MA, the State of Michigan has elected to base financial eligibility on current monthly income and family size. See:

https://www.michigan.gov/documents/mdhhs/MAGI-Based_Income_Methodologies_SPA_17-0100_-_Submission_615009_7.pdf

The Department presented Petitioner's State Online Query (SOLQ) report showing that his gross RSDI income is \$[REDACTED]. The Department testified that Petitioner's wife presented pay statements showing she received gross income in the amount of \$[REDACTED] on November 25, 2023; \$[REDACTED] on December 9, 2023; \$[REDACTED] on December 23, 2023; and \$[REDACTED] on January 6, 2023. Petitioner's and Petitioner's wife's combined income well exceeds the income limit under the HMP program. Therefore, the Department acted in accordance with policy when it determined that Petitioner's wife was only eligible under the Plan First MA program.

As a disabled and/or aged individual, Petitioner is potentially eligible to receive MA benefits through AD-Care. Ad-Care is an SSI-related full-coverage MA program. BEM 163 (July 2017), p. 1. It was not disputed that Petitioner receives \$[REDACTED] in RSDI benefits. As Petitioner and his wife are married, per policy, Petitioner's fiscal group size

for SSI-related MA benefits is two. BEM 211 (January 2016), p. 8. The Department gives AD-Care budget credits for employment income, guardianship and/or conservator expenses and cost of living adjustments (COLA) (for January through March only). Petitioner was entitled to a COLA exclusion of \$77. Petitioner did not allege any of the remaining factors were applicable. Income eligibility for AD-Care exists when countable income does not exceed the income limit for the program. BEM 163 (July 2017), p. 2. The income limit for AD-Care for a two-person MA group is \$1,663.50. RFT 242 (April 2023), p. 1. Because Petitioner's monthly household income well exceeds \$██████████ the Department properly determined Petitioner to be ineligible for MA benefits under AD-Care.

Petitioner may still receive MA benefits subject to a monthly deductible through a Group 2 Medicaid category. Petitioner is not the caretaker of any minor children, and therefore, does not qualify for MA through the Group 2-Caretaker MA program.

Petitioner may still receive MA benefits subject to a monthly deductible through the G2S program. G2S is an SSI-related MA category. BEM 166 (April 2017), p.1. As stated above, Petitioner's SSI-related MA group size is two. Petitioner's net income is \$██████████ (Petitioner's gross RSDI reduced by a \$20 disregard). BEM 541 (April 2017), p. 3. The Department determined that Petitioner's wife had \$██████████ in monthly earned income. The Department provided a verification of employment showing Petitioner's wife was paid on November 25, 2023, in the gross amount of \$██████████; on December 9, 2023, in the gross amount of \$██████████ on December 23, 2023, in the gross amount of \$██████████; and on January 6, 2024, in the gross amount of \$██████████. When averaging Petitioner's wife's income and projecting over a month it results in a standard monthly income of \$██████████. It is unclear how the Department obtained the \$██████████ figure. However, the error is harmless, as it was in Petitioner's favor. Petitioner's wife's income reduced by the 65 and ½ disregard results in a net earned income of \$██████████.

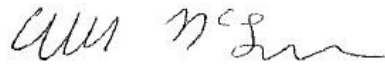
The deductible is in the amount that the client's net income (less any allowable needs deductions) exceeds the applicable Group 2 MA protected income levels (PIL); the PIL is based on the client's MA fiscal group size and the county in which he resides. BEM 105, p. 1; BEM 166 (April 2017), pp. 1-2; BEM 544 (July 2016), p. 1; RFT 240 (December 2013), p. 1; RFT 200 (April 2017), p. 2. The monthly PIL for a client in Petitioner position, with an MA fiscal group size of two living in ██████████ County, is \$500 per month. RFT 200, p. 3; RFT 240, p 1. Thus, if Petitioner's monthly net income (less allowable needs deductions) is in excess of \$500, he is eligible for MA assistance under the deductible program, with the deductible equal to the amount that his monthly net income, less allowable deductions, exceeds \$500. BEM 545 (January 2017), pp. 2-3. The Department presented an SSI-related MA budget showing the calculation of Petitioner and his wife's deductible (Exhibit A, p. 21).

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, there was no evidence that Petitioner or his wife reside in an adult foster care home or home for the

aged. Therefore, Petitioner is not eligible for any remedial service allowances. There was evidence that Petitioner was paying his Medicare Part B premium of \$174.70. The Department provided Petitioner with an insurance deduction of \$293.70. It was unclear from the record why Petitioner was receiving an additional \$119 insurance deduction. However, any error committed by the Department was harmless, as it was in Petitioner's favor. Petitioner and his wife's net income of \$ [REDACTED] reduced by the \$500 PIL, the \$77 COLA exclusion and the \$293.70 total insurance premium is \$ [REDACTED]. Therefore, the Department properly determined that Petitioner was eligible for MA benefits under the G2S program subject to a monthly deductible of \$2,741.

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 acted in accordance with Department policy when it determined Petitioner's and Petitioner's wife's MA eligibility. Accordingly, the Department's decision is **AFFIRMED**.



Ellen McLemore
Administrative Law Judge

EM/tm

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

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Interested Parties

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Via-First Class Mail :

Petitioner

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