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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]
MI [REDACTED]

Date Mailed: March 22, 2024
MOAHR Docket No.: 24-000307
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 hearing was held via telephone conference line on March 7, 2024. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Jamila Goods, hearings facilitator.

ISSUE

The issue is whether MDHHS properly determined Petitioner'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. As of November 2023, Petitioner was an ongoing recipient of MA benefits under the Healthy Michigan Plan (HMP).
2. On November 21, 2023, Petitioner timely returned MA redetermination documents to MDHHS and reported being disabled, at least 19 years of age, not a Medicare recipient, not a caretaker to minor children, unmarried, and not pregnant.
3. On December 6, 2023, MDHHS determined Petitioner was eligible for the limited coverage MA category of Plan First as well as full Medicaid subject to a \$2,029 monthly deductible beginning January 2024.

4. As of January 2024, Petitioner received gross monthly Retirement, Survivors and Disability Insurance (RSDI) of \$2,502 following an increase of \$78 from 2023.
5. On January 10, 2024, Petitioner requested a hearing to dispute the determination of MA benefits.

CONCLUSIONS OF LAW

The 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. MDHHS administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MA policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute a determination of MA eligibility. Exhibit A, pp. 3-5. A Health Care Coverage Determination Notice dated December 6, 2023, stated that Petitioner was eligible for the limited coverage MA category of Plan First beginning January 2024. The notice also stated that Petitioner was eligible for full Medicaid subject to a monthly deductible of \$2,107; MDHHS testimony clarified that Petitioner's deductible was decreased to \$2,029. Exhibit A, pp. 14-19. Petitioner disputed not being eligible for full-coverage Medicaid without a deductible.

Medicaid is also known as MA. BEM 105 (October 2023) p. 1. The MA program includes several sub-programs or categories. *Id.* To receive MA under a Supplemental Security Income (SSI)-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. *Id.* Medicaid eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, MICHild and Healthy Michigan Plan is based on Modified Adjusted Gross Income (MAGI) methodology. *Id.*

Persons may qualify under more than one MA category. *Id.*, p. 2. Federal law gives them the right to the most beneficial category. *Id.* The most beneficial category is the one that results in eligibility, the least amount of excess income or the lowest cost share. *Id.*

MA categories are also split into categories of Group 1 and Group 2. *Id.*, p. 1. For Group 1, a group's net income must be at or below a certain income level for eligibility. *Id.*

Petitioner submitted redetermination documents to MDHHS on November 21, 2023, reporting that he was disabled, at least 19 years of age, not pregnant, not a Medicare recipient, and not a caretaker to minor children. Exhibit A, pp. 6-12. Given Petitioner's reported circumstances, the Group 1 category with the highest income limit for which

Petitioner could receive unlimited coverage is HMP. MDHHS testified that Petitioner was ineligible for HMP due to excess income.

MAGI-based income means income calculated using the same financial methodologies used to determine modified adjusted gross income as defined in section 36B(d)(2)(B) of the Code.¹ 42 CFR 435.603(e). For individuals who have been determined financially-eligible for Medicaid using the MAGI-based methods set forth in this section, a State may elect in its State plan to base financial eligibility either on current monthly household income and family size or income based on projected annual household income and family size for the remainder of the current calendar year. 42 CFR 435.603(h). MDHHS elected to determine HMP eligibility based on current monthly income.²

MAGI can be defined as a household's adjusted gross income with any tax-exempt interest income and certain deductions added back.³ Common deductions and disregards which should be factored in determining a person's adjusted gross income include alimony payments, unreimbursed business expenses, Health Savings Account (e.g., 401k) payments, and student loan interest.⁴ There was no evidence of applicable expenses.

Petitioner reported being an unmarried tax filer with no dependents. Under the circumstances, Petitioner's HMP group size is one person.⁵

As of January 2024, Petitioner's only income derived from \$2,502 in gross monthly RSDI. For all programs, gross RSDI is countable. BEM 503 (January 2023) p. 29. Petitioner's income for purposes of HMP is \$2,502.

HMP income limits are based on 133% of the federal poverty level (FPL). RFT 246 (April 2014) p. 1. MDHHS applies a 5% income disregard when the disregard is the difference between a client's eligibility and ineligibility. BEM 500 (July 2017) p. 5. The disregard functionally renders the HMP income limit to be 138% of the FPL. The 2024 federal poverty level for a 1-person group residing in Michigan is \$15,060.⁶ For Petitioner to be eligible for HMP, Petitioner's income would have to not exceed \$20,782.80 (\$1,731.90 per month).

Petitioner testified that he pays child support. Child support payments are not countable for the payee nor are they deductible for the payer in a MAGI Medicaid determination.

¹ Income exceptions are made for lump-sums which are counted as income only in the month received; scholarships, awards, or fellowship grants used for education purposes and not for living expenses; and various exceptions for American Indians and Alaska natives. No known exceptions are applicable to the present case.

² https://www.michigan.gov/documents/mdhhs/SPA_17-0100_Approved_638230_7.pdf

³ <https://www.investopedia.com/terms/a/agi.asp>

⁴ *Id.*

⁵ See BEM 211 for MDHHS policy to determine group size.

⁶ <https://www.healthcare.gov/glossary/federal-poverty-level-fpl/>

BEM 503 (January 2023) p. 7. Thus, Petitioner's child support does not affect income eligibility for MAGI categories.

Petitioner's gross monthly income exceeds the income limit for HMP. Thus, MDHHS properly terminated Petitioner's HMP eligibility. Because Petitioner is not eligible for any other unlimited-coverage MA categories with a lower income limit, MDHHS properly determined Petitioner ineligible for HMP.

Though Petitioner is ineligible for MA benefits under a Group 1 category, Petitioner may still receive MA under a Group 2 category for being disabled. For Group 2 categories, eligibility is possible even when net income exceeds the income limit for a Group 1 category; this is possible because incurred medical expenses are used when determining eligibility. BEM 105 (January 2023) p. 1. Group 2 categories are considered a limited MA benefit because a deductible is possible. *Id.* For aged/disabled persons, G2S is the applicable Group 2 MA category (see BEM 166).

Clients with a deductible may receive MA if sufficient allowable medical expenses are incurred.⁷ BEM 6545 (July 2022) p. 10. Each calendar month is a separate deductible period. *Id.* The fiscal group's monthly excess income is called the deductible amount. *Id.*, p. 11 Meeting a deductible means reporting and verifying allowable medical expenses that equal or exceed the deductible amount for the calendar month. *Id.*

Petitioner's gross countable income of \$2,502 is unchanged for G2S. For SSI-Related MA categories, MDHHS is to apply the deductions allowed in BEM 541 for adults. BEM 163 (July 2017) p. 2. A \$20 disregard is given for unearned income. BEM 541 (July 2019) p. 3.

MDHHS gives G2S budget credits for employment income, guardianship expenses, and/or conservator expenses. Cost of living adjustments (COLA) are applicable for the benefit months of January through March only. BEM 503 (January 2019) p. 29. MDHHS did not factor any expenses in determining Petitioner's AD-Care eligibility. For a disputed budget of January 2024, MDHHS is to apply a \$78 COLA credit for the increase in Petitioner's RSDI from 2023.

A client's deductible is calculated by subtracting the protected income level (PIL) from the client's net income. A PIL is a standard allowance for non-medical need items such as shelter, food, and incidental expenses. The PIL for Petitioner's shelter area and group size is \$375. RFT 240 (December 2013) p. 1.

Subtracting the PIL (\$375), COLA (\$78), and \$20 unearned income disregard from Petitioner's RSDI of \$2502 results in a monthly deductible of \$2,029: the same deductible calculated by MDHHS. Exhibit A, p. 13. Given the evidence, MDHHS

⁷ Clients should be aware that medical expenses need only be incurred, and not necessarily paid, to meet a deductible/spenddown.

properly determined Petitioner to be eligible for MA subject to a \$2,029 monthly deductible beginning January 2024.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly determined Petitioner to be ineligible for any full-coverage Group 1 MA categories and subject to a monthly deductible of \$2,029 beginning January 2024. The actions of MDHHS are **AFFIRMED**.

CG/nr



Christian Gardocki
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 :

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