



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 26, 2024  
MOAHR Docket No.: 24-001354  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun**

### **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 14, 2024, from Detroit, Michigan. Petitioner appeared for the hearing and represented himself. The Department of Health and Human Services (Department) was represented by Sunshine Simonson, Eligibility Specialist.

### **ISSUE**

Did the Department properly determine Petitioner's eligibility for Medical Assistance (MA) 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. Petitioner was previously a recipient of MA benefits under the Healthy Michigan Plan (HMP) category.
2. Under the Families First Coronavirus Response Act (FFCRA), PL 116-127, Michigan received additional federal MA funding during the COVID-19 pandemic health emergency (PHE).
3. As a condition for receiving the increased funding, § 6008 of the FFCRA required that the Department provide continuous MA coverage for individuals who were enrolled in MA on or after March 18, 2020, even if those individuals became ineligible for MA for reasons other than death, residing outside of Michigan, or requesting that MA be discontinued.

4. The MA continuous coverage requirement under § 6008 of the FFCRA was not indefinite.
5. The Consolidated Appropriations Act, 2023 (CAA, 2023), PL 117-328, terminated the continuous coverage requirement effective March 31, 2023.
6. Beginning April 1, 2023, the CAA, 2023 required the Department to reevaluate almost all MA recipients' eligibility for ongoing MA.
7. In connection with a redetermination, Petitioner's eligibility for MA benefits was reviewed.
8. Petitioner confirmed that his household size is one, that he is over age [REDACTED] that he is enrolled in Medicare, that he receives Veteran Compensation Benefit (VCB) of \$ [REDACTED] monthly, and that at the time of the redetermination, he received Retirement Survivors Disability Insurance (RSDI) or Social Security benefits in the gross monthly amount of \$ [REDACTED]. Petitioner's RSDI increased to \$ [REDACTED] effective January 2024.
9. The Department determined that Petitioner was no longer eligible for MA benefits under the HMP, as he was enrolled in the Medicare program and over age 64.
10. The Department determined that effective November 1, 2023, Petitioner was eligible for MA under the under the Group 2 Aged, Blind, Disabled (G2S) category with a monthly deductible of \$1,601.
11. On or around October 3, 2023, the Department sent Petitioner a Health Care Coverage Determination Notice, advising him that effective November 1, 2023, ongoing, he was eligible for MA subject to a monthly deductible of \$1,601. (Exhibit A, pp. 8-11)
12. On or around January 25, 2024, Petitioner requested a hearing disputing the Department's actions with respect to his MA benefits.
13. After the hearing request was received, Petitioner's deductible was reduced to \$1,578 due to a \$29 cost of living adjustment deduction as well as a change in his Medicare premiums.

### **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.

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 (October 2023), 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, p. 2; 42 CFR 435.404.

HMP is a MAGI-related MA category that provides MA coverage to individuals who (i) are 19 to 64 years of age; (ii) have income under the MAGI methodology at or below 133% of the federal poverty level (FPL); (iii) do not qualify for or are not enrolled in Medicare; (iv) do not qualify for or are not enrolled in other MA programs; (v) are not pregnant at the time of application; and (vi) are residents of the State of Michigan. BEM 137, p. 1; 42 CFR 435.603.

In this case, Petitioner disputed the Department's determination that he was eligible for MA under a deductible based program. It was established that Petitioner had previously been approved for and receiving MA under the full coverage HMP. However, following the end of the public health emergency, the Department was required to review his ongoing MA eligibility.

Because Petitioner is over age [REDACTED] and enrolled in Medicare, he is no longer eligible for full coverage MA under the HMP. The Department properly concluded that Petitioner was eligible for SSI-related MA, which is MA for individuals who are blind, disabled or over age [REDACTED] BEM 105, p. 1. Individuals are eligible for Group 1 coverage, with no deductible, if their income falls below the income limit, and eligible for Group 2 coverage, with a deductible that must be satisfied before MA is activated, when their income exceeds the income limit. BEM 105, p. 1. Ad-Care coverage is a SSI-related Group 1 MA category which must be considered before determining Group 2 MA eligibility. BEM 163 (July 2017), p. 1. Eligibility for Ad-Care is based on the client meeting nonfinancial and financial eligibility criteria. BEM 163, pp. 1-2. The eligibility requirements for Group 2 MA and Group 1 MA Ad-Care are the same, other than income. BEM 166 (April 2017), pp. 1-2.

Income eligibility for the Ad-Care program is dependent on MA fiscal group size and net income which cannot exceed the income limit in RFT 242. BEM 163, p. 2. Petitioner has

a MA fiscal group of one. BEM 211 (October 2023), pp. 5-8. Effective April 1, 2023, an MA fiscal group with one member is income-eligible for full-coverage MA under the Ad-Care program if the group's net income is at or below \$1,235, which is 100 percent of the Federal Poverty Level, plus the \$20 disregard. RFT 242 (April 2023), p. 1.

The Department is to determine countable income according to SSI-related MA policies in BEM 500 and 530 *except* as explained in the countable RSDI section of BEM 163. The Department will also apply the deductions in BEM 540 (for children) or 541 (for adults) to countable income to determine net income. BEM 163, p. 2. The Department asserted that effective November 1, 2023, Petitioner had excess income for the Ad-Care program. The Department representative testified that it considered Petitioner's unearned income at the time of the redetermination, which totaled \$ [REDACTED] and was based on his receipt of monthly veteran compensation benefits of \$ [REDACTED] and \$ [REDACTED] in gross monthly RSDI/Social Security benefits. The Department also properly considered the unearned income general exclusion of \$20 to determine that Petitioner had countable income of [REDACTED].

After further review of Department policy and based on the testimony provided at the hearing, because Petitioner's countable income exceeds the net income limit for the Ad-Care program, the Department acted in accordance with Department policy when it determined that Petitioner was ineligible for full coverage MA benefits under the Ad-Care program without a deductible and determined that he would be eligible for MA under the Group 2 Aged Blind Disabled (G2S) program with a monthly deductible.

Additionally, deductible is a process which allows a client with excess income to become eligible for Group 2 MA if sufficient allowable medical expenses are incurred. BEM 545 (July 2022), p. 10. Individuals are eligible for Group 2 MA coverage when net income (countable income minus allowable income deductions) does not exceed the applicable Group 2 MA protected income levels (PIL), which is based on shelter area and fiscal group size. BEM 105, pp. 1-2; BEM 166, pp. 1-2; BEM 544 (January 2020), p. 1; RFT 240 (December 2013), p. 1. The PIL is a set allowance for non-medical need items such as shelter, food and incidental expenses. BEM 544, p. 1. The monthly PIL for an MA group of one living in Wayne County is \$375 per month. RFT 200 (April 2017), pp. 1-2; RFT 240, p. 1. Thus, if Petitioner's net monthly income is in excess of the \$375, he may become eligible for assistance under the deductible program, with the deductible being equal to the amount that his monthly income exceeds \$375. BEM 545, p. 1. To meet a deductible, a MA client must report and verify allowable medical expenses (defined in Exhibit I) that equal or exceed the deductible amount for the calendar month being tested. The group must report expenses by the last day of the third month following the month in which client wants MA coverage. BEM 545, p. 11. The Department is to add periods of MA coverage each time the group meets its deductible. BEM 545, p.11

The Department determined that effective November 1, 2023, Petitioner was eligible for MA under the G2S category with a monthly deductible of \$1,601. After the hearing request was received, Petitioner's deductible was reduced to \$1,578 in 2024 due to a

\$29 cost of living adjustment deduction as well as a change in his Medicare premiums. However, the updated deductible will not be addressed with this Hearing Decision as the action did not occur until after Petitioner's request for hearing was received. See BAM 600.

At the hearing, the Department representative reviewed the initial SSI-Related Medicaid Income Budget to explain the \$1,601 deductible calculation. As referenced above, for November 1, 2023, the Department properly considered gross unearned income from VCB and RSDI/Social Security in the gross total amount of \$ [REDACTED]

The Department also properly applied a \$20 unearned income exclusion to determine that Petitioner had net unearned income for MA purposes of \$ [REDACTED]. The Department applied an insurance premium deduction of \$170.10, which was said to include Petitioner's responsibility for monthly Medicare premiums that are withheld from his RSDI/Social Security. There was no evidence presented that Petitioner submitted any verification of ongoing medical expenses and no evidence that Petitioner was entitled to any additional deductions to income such as guardianship/conservator expenses or remedial services.

Upon review, the Department properly considered Petitioner's unearned income and took into consideration the appropriate deductions to income. Based on the evidence presented because Petitioner's countable income of \$ [REDACTED] for MA purposes exceeds the monthly protected income level of \$ [REDACTED] by \$ [REDACTED], the Department properly calculated Petitioner's monthly \$ [REDACTED] MA deductible in accordance with Department policy. Therefore, based on the information relied upon by the Department, the Department properly determined that effective November 1, 2023, Petitioner was eligible for MA under the G2S program with a monthly deductible of \$ [REDACTED].

At the hearing, Petitioner asserted that following a prior hearing, his MA coverage under the HMP was reinstated. Petitioner presented a Hearing Decision issued by Administrative Law Judge (ALJ) Amanda Marler under MOAHR Docket No. 22-000348 which was reviewed. Upon review, ALJ Marler concluded that despite Petitioner not being eligible for HMP based on his enrollment in Medicare, due to MA policy waivers implemented as a result of the COVID-19 pandemic, Petitioner's MA coverage was not to be changed to the G2S program until the end of the public health emergency. However, as discussed above, the ending of the public health emergency required the Department to review MA eligibility for beneficiaries. Therefore, the Department was correct in its review of Petitioner's MA eligibility and in its conclusion that Petitioner is no longer eligible to receive MA coverage under the HMP.

Petitioner raised additional concerns about his chore provider case and his chore provider not being paid. Petitioner indicated that he has had a chore provider for several years. It was unclear which months were at issue and which months he asserted that his chore provider did not receive payment from the Department for services provided.

The Department representative testified that because Petitioner's MA case is again subject to a monthly deductible, Petitioner is required to submit verification showing that


he incurred medical expenses that were sufficient to meet or exceed his deductible each month. The Department representative reviewed Petitioner's electronic case file and found no record of any such expenses submitted. Upon review, Petitioner did not establish a negative action with respect to medical expenses not being properly processed or with respect to his MA eligibility. Therefore, Petitioner was advised any dispute concerning chore provider payment or the termination of chore provider services/adult home help case needed to be addressed with a hearing request filed with the adult medical services district within the Department.

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 processed Petitioner's MA benefits and determined his MA eligibility.

**DECISION AND ORDER**

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

ZB/ml

  
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**Zainab A. Baydoun**  
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**  
Tara Roland 82-17  
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**Via First Class Mail:**

**Interested Parties**  
M Schaefer  
EQAD  
MOAHR

**Petitioner**

[REDACTED]  
[REDACTED] MI [REDACTED]