



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]
MI [REDACTED]

Date Mailed: May 15, 2024
MOAHR Docket No.: 24-002591
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 April 11, 2024. Petitioner was present at the hearing and represented by his wife, [REDACTED] Elsiatah, (Interpreter ID# 22391) was also present at the hearing and served as an Arabic translator.

The Department of Health and Human Services (Department) received notice of the hearing but did not appear at the hearing.

ISSUE

Did the Department properly determine that Petitioner and his wife (Wife) were eligible for Medicaid (MA) coverage under Group 2 SSI-related (G2S) with a monthly deductible and Plan First Family Planning (PFFP)?

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 Wife were ongoing MA recipients under AD-Care.
2. Petitioner, [REDACTED] years old, and Wife, [REDACTED] years old, are married.
3. Both Petitioner and Wife receive monthly Retirement, Survivors, and Disability Insurance (RSDI) benefits in the gross amounts of [REDACTED] and [REDACTED] respectively.
4. Petitioner's and Wife's Medicare B Premiums payments are deducted from their RSDI in the monthly amount of \$164 each.

5. In connection with a redetermination completed by Petitioner, the Department sent a Health Care Coverage Determination Notice (HCCDN) dated December 5, 2023 informing Petitioner that he and Wife were eligible for G2S MA coverage with a monthly deductible of \$1,025 effective December 1, 2023. (Exhibit A, pp. 1, 12).
6. On February 22, 2024, the Department received Petitioner's request for hearing disputing the deductible amount determined by the Department. (Exhibit A, pp. 3-4).

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 at redetermination, the Department concluded that Petitioner and Wife were eligible for MA coverage under the G2S program and PFFP. 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 2024), p. 1; BEM 137 (January 2024), 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 Wife were Medicare recipients and over age 65 and there was no evidence that Petitioner or Wife were the parent or caretaker of a minor child, Petitioner and Wife were eligible for MA only under an SSI-related category. In determining the SSI-related MA category they are eligible for, the Department must determine their MA fiscal group size and net income. As a married individual, Petitioner

and Wife have fiscal group size for SSI-related MA purposes of two. BEM 211 (October 2023), p. 8. The household's net income for MA purposes is [REDACTED] (Petitioner's and Wife's combined gross unearned RSDI income of [REDACTED] and [REDACTED] respectively) reduced by a \$20 disregard). BEM 541 (January 2024), p. 3.

The monthly income limit for AD-Care coverage is \$1,663.50 for a fiscal group size of two. RFT 242 (April 2023), p.1. Based on Petitioner's and Wife's net income of [REDACTED] they have excess income for eligibility under the AD-Care program, the full-coverage SSI-related MA program. BEM 163 (July 2017), p. 2; RFT 242, 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 (July 2022), p. 1; RFT 240 (December 2013), p. 1; RFT 200 (April 2017), p. 2. The monthly PIL for a client in Petitioner and Wife'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 and Wife are eligible for MA assistance under the deductible program, with the deductible equal to the amount of the monthly net income, less allowable deductions, reduced by \$500 per month. BEM 545 (July 2022), pp. 2-3.

A March 14, 2024 Health Care Coverage Determination Notice indicated that Petitioner and Wife had various deductibles ranging from \$1,159 monthly in November 2023 to \$1,025 monthly for April 2024 ongoing. The Department was not present at the hearing and no SSI-related MA budget was provided for this case showing the Department's calculation of Petitioner's deductible. Because no budget was provided by the Department and the Department was not present at the hearing, the undersigned is without information or evidence to determine whether the deductible amount was properly determined by 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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined that Petitioner and Wife were only eligible for MA coverage under the G2S program with a monthly deductible of ranging from \$965 to \$1,025.

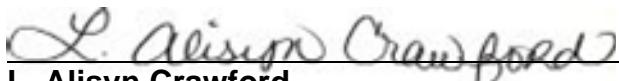
DECISION AND ORDER

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

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Redetermine Petitioner and Wife's MA eligibility effective December 1, 2023 based on a fiscal group size of two;
2. If eligible, provide Petitioner and Wife with the most beneficial MA coverage they are eligible to receive from December 1, 2023; and
3. Notify Petitioner and Wife in writing of its decision.

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

Yaita Turner

Oakland County Southfield District III

25620 W. 8 Mile Rd

Southfield, MI 48033

MDHHS-Oakland-6303-Hearings@michigan.gov

Interested Parties

BSC4

M Schaefer

EQAD

MOAHR

Via First Class Mail:

Petitioner

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