



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: June 10, 2024
MOAHR Docket No.: 24-002685
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Caralyce M. Lassner

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 by telephone on May 15, 2024. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Danielle Moton, Assistance Payments Worker.

ISSUE

Did the Department properly determine Petitioner's eligibility for Medicaid (MA) coverage effective January 1, 2024?

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 an ongoing recipient of MA coverage. (Exhibit A, p. 1).
2. Petitioner completed a mid-certification application for her January 2024 ongoing MA coverage, which was due to the Department. (Exhibit A, p. 1).
3. Petitioner's sole source of income was Retirement, Survivors, and Disability Insurance (RSDI), in the amount of \$1,414. Her RSDI increased to \$1,459 in January 2024 due to the annual cost of living adjustment (COLA).
4. On December 14, 2023, Petitioner provided a copy of her 2023 Social Security benefit statement to the Department. (Exhibit A, p. 13).

5. On December 14, 2023, the Department sent Petitioner a Health Care Coverage Determination Notice (Notice), and approved her for the following MA coverage effective January 1, 2024 ongoing:
 - a. Plan First (PFFP),
 - b. Group 2 Aged, Blind and Disabled (G2S), subject to a monthly deductible of \$1,019, and
 - c. Medicare Savings Program, Specified-Low Income Medicare Beneficiaries (SLMB).(Exhibit A, pp. 7 – 10).
6. On December 14, 2023, the Department provided Petitioner with a Deductible Report form, which it enclosed with the Notice to Petitioner. (Exhibit A, pp. 11 – 12).
7. On February 12, 2024, the Department received Petitioner's request for hearing requesting a review of the MA coverage the Department approved her for. (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.

Petitioner requested a hearing to dispute a change in her MA coverage from AD-Care MA to G2S MA, subject to a deductible of \$1,019, effective January 2024 ongoing. Petitioner did not dispute her approval for PFFP or SLMB.

Whether the Department properly determined each member's MA eligibility requires consideration of all MA categories. Under federal law, an individual is entitled to the most beneficial category, which is the one that results in a) eligibility, b) the least amount of excess income, or c) the lowest cost share. BEM 105 (January 2024), p. 2.

All MA category options must be considered in order for the Petitioner's right of choice to be meaningful. BEM 105, p. 2.

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, and (iii) to individuals who meet the eligibility criteria for Healthy Michigan Plan (HMP) coverage. 42 CFR 435.911; 42 CFR 435.100 to 435.172; BEM 105, p. 1; BEM 137 (January 2024), p. 1; BEM 124 (July 2023), p. 1. Because Petitioner is over age 65 and is not the caretaker of a minor child, Petitioner is eligible for MA under only SSI-related categories.

AD-Care MA

Based on Petitioner's circumstances, she was potentially eligible for AD-Care MA. The AD-Care program is a Group 1, full-coverage, SSI-related MA program for aged individuals who are income-eligible based on their MA fiscal group size. BEM 163 (July 2017), p. 1; BEM 240 (July 2021), p. 3. Net income for this program cannot exceed 100% of the Federal Poverty Level (FPL). BEM 163, p. 1. Unmarried individuals who apply for SSI-related MA are a fiscal group size of one. BEM 211 (October 2023), p. 8. Because Petitioner is not married, to be income eligible for this program, Petitioner's countable net income would have had to be \$1,235 or less for a fiscal group-size of one; and effective April 1, 2024, would have to be \$1,275 or less for a fiscal group-size of one. RFT 242 (April 2023) (April 2024)¹.

Petitioner was receiving \$1,414 per month in RSDI in 2023 and began receiving \$1,459 in RSDI per month in January 2024 due to the COLA. When the client's income is from RSDI and the Department is calculating a client's MA budget in January, February, or March of a given year, federal law requires the COLA increase received by the client, starting in January, be disregarded for these three months; the Department is to use the gross amount of RSDI for the immediately previous December for those budget months. BEM 503 (January 2023), p. 30. Therefore, for purposes of budgeting Petitioner's income to determine her eligibility for AD-Care MA, the Department was required to budget Petitioner's RSDI income as \$1,414 for January, February, and March 2024, and begin budgeting Petitioner's increased RSDI income of \$1,459 in April 2024 ongoing.

When determining an individual's eligibility for AD-Care MA, the individual is eligible for certain deductions from their gross income, which are applied in the order in which they are set forth in policy. BEM 541 (January 2024), p. 1. If a member of the fiscal group has work expenses related to blindness or impairment of the worker, court ordered child support paid by the individual's spouse, or certain expenses related to non-SSI children, those expenses would be subtracted from the gross income. BEM 541, p. 1. Petitioner testified that she does not have any such expenses. The Department then deducts \$20 from the fiscal group's remaining unearned income. BEM 541, p. 3. Lastly, if a fiscal group member pays any court-appointed guardian and/or conservator expenses, the

¹ The limits set forth in RFT 242 are 100 percent of the Federal Poverty Level (FPL) + \$20 disregard for any RSDI income.

Department deducts \$83. BEM 541, p. 3. Petitioner testified that she does not pay any guardian or conservator expenses.

In this case, the Department properly limited the deductions from Petitioner's countable gross income to the \$20 disregard and the COLA exclusion of \$45 for January, February, and March 2024. When the Department deducted Petitioner's two deductions from Petitioner's gross RSDI income, it determined that her countable net income was \$1,394 as of January 2024. (Exhibit A, p. 15). This amount is more than the net income limit for AD-Care MA, and therefore the Department properly determined Petitioner was ineligible for AD-Care MA coverage. Petitioner's net income for April 2024 ongoing, when the COLA is added back into determination of her AD-Care eligibility, was also over the income limit for AD-Care eligibility. Therefore, the Department properly determined that she was not eligible for AD-Care MA.

G2S MA

The Department determined that Petitioner was eligible for G2S MA, which is an SSI-related Group 2 MA category available to a person who is aged (65 or older), blind, or disabled. BEM 166 (April 2017), p. 1. Clients who are ineligible for full-coverage MA coverage because of excess income may still be eligible for G2S MA, which provides for MA coverage with a monthly deductible. BEM 105, p. 1.

The deductible for G2S MA is equal to (i) the amount the individual's net income, calculated in accordance with the applicable Group 2 MA policy, (ii) minus specific expenses set forth in BEM 544, and (iii) minus the applicable Group 2 MA protected income level (PIL). BEM 166, p. 2; BEM 541, pp. 1, 3 – 4; BEM 544 (January 2020). The PIL is a set allowance for nonmedical need items such as shelter, food, and incidental expenses that is based on the county in which the client resides, and the client's fiscal MA group size. BEM 544, p. 1. The PIL for Wayne County, where Petitioner resides, for a one-person fiscal group, is \$375. RFT 200 (April 2017), p. 2; RFT 240 (December 2013), p. 1.

As set forth previously, Petitioner's net income, after deducting the \$20 disregard under BEM 541, and including the COLA exclusion of \$45 pursuant to BEM 503, was \$1,394 for January, February, and March 2024. For the April 2024 ongoing budget months, the COLA exclusion does not apply, and Petitioner's net income increased to \$1,439 for April ongoing. (Exhibit A, p. 14).

The Department then subtracts certain specific expenses from Petitioner's net income, including \$83 for guardianship and conservatorship expenses, health insurance premiums of the MA recipient, and medical amounts billed to the MA recipient. BEM 541, pp. 1 – 3; BEM 544, pp. 1 – 2. As indicated above, Petitioner testified that she does not incur any guardianship/conservator expenses. Petitioner also testified that she does not pay any health insurance premiums. Petitioner presented five exhibits, totaling 82 pages and dated from at least 2021 to present, comprised of various medical records and documents related to her medical situation in support of her position at the hearing and these exhibits were entered and marked as Exhibits 1 – 5. However, Petitioner

testified that she has not submitted proof of any ongoing medical expenses to the Department. Therefore, Petitioner was not entitled to any of the specific additional deductions from the fiscal group's net income and her countable net income remained \$1,394 for January, February, and March 2024, and \$1,439 for April 2024 ongoing. (Exhibit A, p. 14).

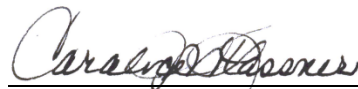
The Department then deducted Petitioner's \$375 PIL, which left \$1,019 for the months of January, February, and March 2024, and \$1,064 for April 2024 ongoing. (Exhibit A, p. 14). The amount left becomes the deductible amount. The Notice issued by the Department on December 14, 2023, effective January 2024 ongoing, approved Petitioner for G2S MA coverage subject to a monthly deductible of \$1,019. (Exhibit A, pp. 7 – 10). At the hearing, the Department presented a G2S MA budget showing its calculation of Petitioner's deductible, effective April 2024 ongoing, to be \$1,064. (Exhibit A, p. 14). The difference in deductible amounts stated in the Notice and presented on the budget reflect that the Department appropriately budgeted the COLA exclusion required by BEM 503 when it issued the Notice. Therefore, the Department properly calculated Petitioner's deductible in the amount of \$1,019 when it issued the Notice and \$1,064 for April 2024 ongoing, based on the fiscal group's income.

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 MA eligibility and G2S MA deductible.

DECISION AND ORDER

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

CML/nr



Caralyce M. Lassner
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
Wayne-Greenfield/Joy-DHHS
8655 Greenfield
Detroit, MI 48228
**MDHHS-Wayne-17-
hearings@michigan.gov**

Interested Parties
Wayne 17 County DHHS
BSC4
M. Schaefer
EQAD
MOAHR

Via-First Class Mail :

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