



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.: 24-002974  
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 April 25, 2024. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by Jamila Goods, Eligibility Specialist. Translation services were provided by Maher Eleia, an independent English-Arabic translator engaged by the Department.

### **ISSUE**

Did the Department properly determine Petitioner's Medicaid (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 is married, over 65 years of age, and was due for redetermination for MA benefits for April 1, 2024 ongoing.
2. Petitioner is a recipient of Retirement, Survivors, and Disability Insurance (RSDI) due to disability. (Exhibit A, p. 12).
3. Petitioner's spouse is employed. (Exhibit A, pp. 8 – 11).
4. On February 12, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice (MA determination), notifying Petitioner he was approved for

Medicare Savings Program - Specified Low-Income Medicare Beneficiaries (SLMB), effective February 1, 2024. (Exhibit B, pp. 1 – 3).

5. On February 12, 2024, the Department sent Petitioner a Verification Checklist (VCL) requesting proof of Petitioner's and his spouse's income. (Exhibit A, pp. 6 – 7).
6. On February 20, 2024, Petitioner provided the requested verifications. (Exhibit A, pp. 8 – 12).
7. On March 11, 2024, the Department sent Petitioner a MA determination, approving Petitioner for coverage, effective April 1, 2024, subject to a \$1,232 monthly deductible. (Exhibit A, pp. 14 – 16).
8. On March 19, 2024, the Department received Petitioner's request for hearing disputing the MA coverage he was approved for and requesting full coverage MA. (Exhibit A, pp. 3 – 5).

### **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 not being approved for full coverage MA.

Determining 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 receives RSDI based on a disability or his age, is a Medicare recipient, and is not the caretaker of a minor child, Petitioner is eligible for MA under only SSI-related categories.

Based on Petitioner's circumstances, he was potentially eligible for Ad-Care MA. The Ad-Care program is a Group 1, full-coverage, SSI-related MA program for disabled individuals who are income-eligible based on their MA fiscal group size. BEM 163 (July 2017), p. 1. However, net income for this program cannot exceed 100% of the Federal Poverty Level (FPL). BEM 163, p. 1. Married individuals who apply for SSI-related MA are a fiscal group size of two. BEM 211 (October 2023), p. 8. Because Petitioner is married, to be income eligible for this program, Petitioner's income would have had to be \$1,703.50 or less for a fiscal group-size of two. RFT 242 (April 2024)<sup>1</sup>.

In this case, Petitioner receives RSDI in the amount of \$789 per month. (Exhibit A, p. 12). The gross amount of RSDI is counted as unearned income but, for purposes of SSI-related MA, is reduced by \$20 to determine the net unearned income. BEM 503 (April 2024), pp. 30 – 31; BEM 541 (January 2024), p. 3; see also BEM 163. The Department properly determined the fiscal group's net unearned income was \$769. (Exhibit A, p. 13).

Petitioner's spouse is employed and earned no more than \$ [REDACTED] in the month prior to Petitioner's redetermination based on the pay stubs provided to the Department. (Exhibit A, pp. 8 – 11, 13). When a member of the fiscal group has earned income, the Department deducts \$65 from the gross earned income and then an additional 50% of the remaining gross earned income to determine a net earned income. BEM 541, p. 3. The Department properly determined the fiscal group's net earned income was \$ [REDACTED] (Exhibit A, p. 13).

The Department then adds the fiscal group's net unearned and earned income together and subtracts any guardianship/conservator expenses or work expenses related to blindness or impairment of the worker, to determine the fiscal group's net income. BEM 541, pp. 1 – 3. No evidence was offered that Petitioner's spouse is blind or impaired or that Petitioner pays any guardianship or conservator expenses, and the Department did not deduct any amounts for those expenses. Therefore, adding Petitioner's fiscal group's net unearned and earned income together results in a net income of \$ [REDACTED] for the fiscal group. This amount is more than 100% of the FPL and therefore, the Department properly determined that Petitioner was not eligible for Ad-Care MA.

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

The Department determined that Petitioner was eligible for Group 2 Aged, Blind, and Disabled (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 his two-person fiscal group, is \$500. RFT 200 (April 2017), p. 2; RFT 240 (December 2013), p. 1.

The Department presented a G2S budget showing its calculation of the deductible. As set forth previously, Petitioner's fiscal group's net income is \$ [REDACTED] (Exhibit A, p. 13).

The Department then adds the fiscal group's net unearned and earned income together and subtracts certain specific expenses, including insurance premiums of the MA recipient. BEM 541, pp. 1 – 3; BEM 544, pp. 1 – 2. As indicated above, Petitioner did not testify that he incurs any guardianship/conservator expenses. Additionally, no evidence was introduced that Petitioner has any ongoing medical expenses or remedial services. And, because Petitioner was approved for SLMB, which pays Medicare Part B premiums, effective February 1, 2024, Petitioner no longer pays his Medicare Part B premiums. BEM 165 (October 2022), p. 2. (Exhibit B, pp. 1 – 3). Petitioner confirmed he is no longer paying a premium. Therefore, Petitioner was not entitled to any of the specific additional deductions from the fiscal group's net income.

The fiscal group's countable income remained \$ [REDACTED] the total of Petitioner's net unearned income plus his Spouse's net earned income. (Exhibit A, p. 13). The Department then deducted Petitioner's \$500 PIL, which left \$1,232. (Exhibit A, p. 13). The amount left becomes the deductible amount. Therefore, the Department properly calculated Petitioner's deductible in the amount of \$1,232, based on the fiscal group's income at the time of redetermination.

If the fiscal group's income increases or decreases, Petitioner must report those changes to the Department and may request a review of his case to determine if a more favorable MA coverage is available to him at that time.

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 deductible.

**DECISION AND ORDER**

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



CML/nr

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**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 :**

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