



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 3, 2024
MOAHR Docket No.: 24-003649
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 8, 2024. Petitioner appeared and was represented by their Authorized Hearing Representative (AHR), [REDACTED] [REDACTED]. The Department of Health and Human Services (Department) was represented by Jamila Goods, Eligibility Specialist.

ISSUE

Did the Department properly determine Petitioner's eligibility for Medicaid (MA) coverage?

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 lives in Wayne County, is married, is over 65 years of age, and was due for a redetermination of MA for the benefit period beginning November 2023.
2. Petitioner was approved for Healthy Michigan Plan (HMP) MA through November 30, 2023.
3. Petitioner was approved for Ad-Care MA from December 1, 2023 through March 31, 2024.

4. Petitioner is employed by [REDACTED] [REDACTED] (Employer) with a salary of \$ [REDACTED] per week.
5. Petitioner's spouse (Spouse) is employed by [REDACTED] (Spouse's Employer) as a substitute teacher.
6. Neither Petitioner nor Spouse receive any Retirement, Survivors, and Disability Insurance (RSDI) or Supplemental Security Income (SSI).
7. On March 29, 2024, the Department received Petitioner's request for hearing disputing denial of his MA. (Exhibit A, pp. 3 – 4).
8. On April 9, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice (notice) and changed Petitioner's MA coverage to SSI-related Group 2 Aged, Blind and Disabled (G2S) coverage, with a \$1,430 deductible, effective April 1, 2024 ongoing. (Exhibit A, pp. 8 – 9).

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 the Department's determination of his MA coverage. Petitioner was changed from Ad-Care MA coverage to SSI-related G2S MA coverage with a \$1,430 deductible, effective April 1, 2024 ongoing, due to Petitioner's countable net income.

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 is over age 65 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 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. 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 countable income would have had to be \$1,703.50 or less for a fiscal group-size of two. RFT 242 (April 2024)¹.

In this case, neither Petitioner nor Spouse receive RSDI or SSI. Petitioner's AHR confirmed that Petitioner is employed and earns a gross salary of \$[REDACTED] per week. The Department testified that it included \$[REDACTED] Petitioner's weekly salary times four, in gross income from Petitioner's earnings in determining Petitioner's eligibility. The Department properly determined Petitioner's gross earned income for purposes of determining SSI-related MA eligibility.

The Department testified that it budgeted \$[REDACTED] in gross income for Spouse's earnings based on receipt of three weekly paystubs for Spouse in the amounts of \$[REDACTED] \$[REDACTED] and \$[REDACTED]. When the Department does not have four weekly paystubs, it may prospect income. For purposes of SSI-related MA, prospecting income means arriving at a best estimate of the person's income and is appropriate when estimating income to be received in a processing or future month but may not be the exact amount of income received. BEM 530 (April 2020), p. 3. Though the Department did not explain as much, a review of the evidence shows that the \$1,546 budgeted by the Department for Spouse's earnings was determined by first determining the average of the three weekly paystubs ($\$[REDACTED] + \$[REDACTED] + \$[REDACTED] = \$[REDACTED] / 3 = \$[REDACTED]$) and multiplying it by four. The Department properly determined Spouse's gross earned income for purposes of determining SSI-related MA eligibility.

The Department then added Petitioner and Spouse's countable gross earned income together for a total of \$[REDACTED] (Exhibit A, p. 7). When determining an individual's eligibility for SSI-related MA for adults, the individual is eligible for certain deductions, 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

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

impairment of the worker, court ordered child support paid by the individual's spouse, or certain expenses related to non-SSI children, those amounts would be subtracted from the gross income. BEM 541, p. 1. No evidence was offered that the fiscal group has any such expenses.

Next, when the fiscal group does not have unearned income, the Department subtracts \$20, and then an additional \$65, from the remaining earnings. BEM 541, p. 3. Once those deductions have been taken, the Department subtracts 1/2 of the group's remaining earnings. BEM 541, p. 3. Lastly, the Department subtracts any guardianship/conservator expenses. BEM 541, p. 3. No evidence was offered that Petitioner has any guardianship/conservator expenses.

Therefore, Petitioner's countable gross earned income of \$ [REDACTED] minus \$20 equals \$ [REDACTED] then \$ [REDACTED] minus \$65 equals \$ [REDACTED] \$ [REDACTED] divided by half is \$ [REDACTED] \$ [REDACTED] minus \$ [REDACTED] results in a net income of \$ [REDACTED]. Because \$ [REDACTED] is more than the \$1,703.50 limit for a fiscal group-size of two for Ad-Care eligibility, the Department properly determined Petitioner was ineligible for Ad-Care MA.

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 \$1,930.50. (Exhibit A, p. 7).

The Department then 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's AHR testified that Petitioner does not incur any guardianship/conservator expenses. Petitioner's AHR also testified that Petitioner does not pay any insurance premiums. Additionally, no evidence was introduced that Petitioner has submitted proof of any ongoing medical expenses or remedial services to the Department. Therefore, Petitioner was not entitled to any of the specific additional deductions from the fiscal group's net income.

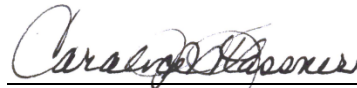
The fiscal group's countable net income remained \$ [REDACTED] (Exhibit A, p. 7). The Department then deducted Petitioner's \$500 PIL, which left \$ [REDACTED] (dropping cents). (Exhibit A, p. 7). The amount left becomes the deductible amount. Therefore, the Department properly calculated Petitioner's deductible in the amount of \$ [REDACTED] 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**.



Caralyce M. Lassner
Administrative Law Judge

CML/nr

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
Susan Noel
Wayne-Inkster-DHHS
26355 Michigan Ave
Inkster, MI 48141
**MDHHS-Wayne-19-
Hearings@michigan.gov**

Interested Parties
Wayne 19 County DHHS
BSC4
M. Schaefer
EQAD
MOAHR

Via-First Class Mail :

Authorized Hearing Rep.

[REDACTED], MI [REDACTED]

Petitioner

[REDACTED], MI [REDACTED]