



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: July 11, 2024  
MOAHR Docket No.: 24-004240  
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 June 13, 2024. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Thomas Jones, Assistance Payments Supervisor.

### **ISSUE**

Did the Department properly determine Petitioner's eligibility for Medicaid (MA) coverage effective April 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 and completed a redetermination application for her April 2024 ongoing MA coverage. (Exhibit A, p. 1).
2. Petitioner's sole source of income was Retirement, Survivors, and Disability Insurance (RSDI), in the amount of \$2,312. (Exhibit A, pp. 4, 6; Exhibit 1, pp. 1 – 2).
3. On February 26, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice (HCCDN) and approved her for the following MA coverage effective April 1, 2024 ongoing:

- a. Plan First Family Planning (PFFP), and
- b. Group 2 Aged, Blind and Disabled (G2S), subject to a monthly deductible of \$1,884.

(Exhibit A, pp. 7 – 12).

4. On April 11, 2024, the Department received Petitioner's request for hearing disputing the amount of her MA deductible. (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 the amount of her MA deductible. Petitioner was approved for PFFP and G2S, subject to a deductible of \$1,886.

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 disabled and is not the caretaker of a minor child, Petitioner is eligible for MA under only SSI-related categories.

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 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) for the fiscal group size. BEM 163, p. 1. For SSI-related MA purposes, adults who do not live with a spouse are a fiscal group size of one. BEM 211 (October 2023), p. 8. Petitioner testified that she is married but has lived separately from her spouse for 12 or 13 years; therefore, she is a fiscal group of one. Because she is a fiscal group of one, to be income eligible for this program, Petitioner's monthly income would have had to be \$1,275 or less for a fiscal group-size of one. RFT 242 (April 2024).

In this case, Petitioner receives RSDI in the amount of \$2,312 per month. (Exhibit A, pp. 4, 6; Exhibit 1, pp. 1 – 2). 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. Petitioner's RSDI reduced by \$20, equals \$2,292. Because \$2,292 is more than the limit for Ad-Care MA, Petitioner was not eligible for Ad-Care 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. Deductible expenses include incurred medical expenses that are not subject to being paid by a third party. BEM 545 (July 2022), p. 3; 42 CFR 435.831(d).

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 Oakland County, where Petitioner resides, for her one-person fiscal group, is \$408. RFT 200 (April 2017), p. 3; RFT 240 (December 2013).

The Department presented a G2S budget, for the benefit period of April 1, 2024 ongoing, showing its calculation of the deductible. (Exhibit A, p. 6). In calculating Petitioner's deductible, the Department started with Petitioner's gross RSDI unearned income amount of \$2,312. Petitioner's monthly RSDI income, minus \$20 excluded under policy, resulted in a net income of \$2,292. The Department properly calculated Petitioner's net income.

The Department properly included Petitioner's \$408 PIL deduction. (Exhibit A, p. 6). Petitioner testified that she does not incur any guardianship/conservator expenses or remedial services. Therefore, Petitioner was not entitled to these specific additional deductions from her net income. However, Petitioner testified that she pays Medicare Part B premiums, which is deducted from her RSDI. The Department's budget reflects

that it did not deduct any amount for Petitioner's payment of Medicare Part B premiums and the Department acknowledged that as an error during the hearing. (Exhibit A, p. 6).

Petitioner testified that she has ongoing medical expenses for dialysis and received her first bill just prior to the hearing. Petitioner's dialysis bill may be reported to the Department to be applied toward Petitioner's deductible amount.

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 did properly determine Petitioner's MA coverage as G2S; however, it did not act in accordance with Department policy when it failed to deduct Petitioner's Medicare Part B premiums from Petitioner's net income when it calculated Petitioner's deductible for G2S MA coverage.


### **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's G2S deductible; and
2. Notify Petitioner of its decision in writing.

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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**Interested Parties**  
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