



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]
[REDACTED], MI [REDACTED]

Date Mailed: July 10, 2024
MOAHR Docket No.: 24-005135
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 Jennifer Richard, Assistance Payments Supervisor.

ISSUE

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

Did the Department properly close Petitioner's Medicare Savings Program (MSP) due to excess income effective May 1, 2024 ongoing?

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 unmarried [REDACTED] year-old ongoing recipient of Freedom to Work (FTW) MA and MSP coverage.
2. On March 25, 2024, the Department received Petitioner's timely completed redetermination application for her May 2024 ongoing MA and MSP coverage. (Exhibit A, pp. 33 – 37).

3. As of March 25, 2024, Petitioner's sources of income were Retirement, Survivors, and Disability Insurance (RSDI), in the amount of \$1,365, and employment with Hobby Lobby (Employer). (Exhibit A, pp. 13 – 32, 35).
 4. On April 16, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice (HCCDN) and approved her for the following MA coverage effective May 1, 2024 ongoing:
 - a. Plan First Family Planning (PFFP), and
 - b. Group 2 Aged, Blind and Disabled (G2S), subject to a monthly deductible of \$1,416.
- The Department also notified Petitioner her MSP case was denied due to excess income. (Exhibit A, pp. 50 – 56).
5. On April 11, 2024, the Department received Petitioner's request for hearing disputing a change in MA coverage to PFFP and G2S and denial of her MSP. (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 a change in her MA coverage from FTW to PFFP and G2S subject to a deductible of \$1,416 per month. Petitioner also disputed the denial of her ongoing MSP coverage due to excess income.

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

In this case, the Department testified that prior to a redetermination, Petitioner was an ongoing recipient of FTW MA. FTW is a Group 1 SSI-related MA program available to disabled individuals aged 16 to 64 with earned income. BEM 174 (October 2020), p. 1. Though Petitioner is still disabled, because she is [REDACTED] years of age (Exhibit A, p. 34), she is no longer eligible for FTW MA coverage. The Department properly determined Petitioner was no longer eligible for MA coverage under FTW.

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 disabled individuals who are income-eligible based on their MA fiscal group size. BEM 163 (July 2017), p. 1. The net income limit for eligibility for this program cannot exceed 100% of the Federal Poverty Level (FPL) for the fiscal group size. BEM 163, p. 1. Income eligibility for MA is based on current monthly income. Bridges Policy Glossary (BPG) (February 2024), p. 35. For SSI-related MA purposes, unmarried individuals are a fiscal group size of one. BEM 211 (October 2023), p. 8. Because Petitioner is single, 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 \$1,365 per month, which Petitioner confirmed during the hearing. (Exhibit A, p. 13). 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 \$1,345, which is consistent with the Department's testimony. The Department properly determined Petitioner's net unearned income for purposes of determining SSI-related MA eligibility.

In addition to her RSDI, Petitioner confirmed that she is employed by Employer and provided paystubs to the Department as part of her redetermination process. (Exhibit A, pp. 41 – 44). For purposes of SSI-related MA, the Department counts an individual's gross earnings to determine their countable earned income. BEM 500 (April 2022), p. 4. The paystubs Petitioner provided established that she was paid bi-weekly by Employer on February 2, 2024 in the gross amount of \$ [REDACTED] on February 16, 2024 in the gross amount of \$ [REDACTED] on March 1, 2024 in the gross amount of \$ [REDACTED] and on March 15, 2024 in the gross amount of \$ [REDACTED] (Exhibit A, pp. 41 – 44).

The Department testified that it budgeted \$ [REDACTED] (dropping cents) in gross earned income for Petitioner, which is Petitioner's current monthly income from March 2024, as determined by adding her two bi-weekly paystubs together (Exhibit A, pp. 41 – 42, 46, 48). The Department properly used Petitioner's current monthly earned income and determined Petitioner's gross earned income for purposes of determining SSI-related MA eligibility.

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, 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, certain expenses related to non-SSI children, or guardianship/conservator expenses paid by the client, a deduction from income is available. BEM 541, pp. 1 – 3. No evidence was offered that Petitioner has any such expenses. The Department also subtracts \$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.

Therefore, Petitioner's countable gross earned income of \$ [REDACTED] minus \$65 equals \$ [REDACTED]. \$ [REDACTED] divided by half is \$ [REDACTED]. Because Petitioner does not have any guardianship/conservator expenses, no further deduction was taken, and Petitioner's net earned income was \$462. The Department then adds net unearned, and net earned income together. In Petitioner's case, that results in total net income of \$ [REDACTED]. Because \$ [REDACTED] is more than the \$1,275 limit for a fiscal group-size of one for Ad-Care eligibility, the Department properly determined Petitioner was ineligible 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 Kent County, where Petitioner resides, for a one-person fiscal group, is \$341. RFT 200 (April 2017), p. 2; RFT 240 (December 2013).

As set forth above, Petitioner's total net income for SSI-related MA is \$ [REDACTED] (Exhibit A, p. 48).

The Department then subtracts allowable needs deductions from Petitioner's net income, consisting of health insurance premiums of the MA recipient and remedial services necessary to reduce physical and mental limitations and restore individuals to the possible functional level. BEM 541, pp. 1 – 3; BEM 544, pp. 1 – 2. Petitioner testified that she had been paying FTW health insurance premiums but, as she is no longer eligible for FTW, she will no longer be paying those premiums. No evidence was provided that Petitioner will have any other health insurance premium going forward or that she provided any receipts or other proof of medical bills to the Department. Therefore, Petitioner was not entitled to any of the specific additional deductions from her net income and her countable net income remained \$ [REDACTED] (Exhibit A, p. 48).

The Department then deducted Petitioner's \$391 PIL from her net income, which left \$1,416. (Exhibit A, p. 48). The amount left becomes the deductible amount. The Notice issued by the Department on April 16, 2024; effective May 2024 ongoing, approved Petitioner for G2S MA coverage subject to a monthly deductible of \$1,416. (Exhibit A, pp. 50 – 56). Therefore, the Department properly calculated Petitioner's deductible in the amount of \$1,416 based on Petitioner income.

MSP

The Medicare Savings Program (MSP) is an SSI-related MA category and is not limited to Group 1 or Group 2 MA. BEM 165 (October 2022), p. 1. The State may pay for a client's Part B Medicare premium and possibly other Medicare copays and deductibles if a client is eligible for MSP. There are three (3) categories of MSP: Qualified Medicare Beneficiaries (QMB), Specified Low-Income Medicare Beneficiaries (SLMB), and Q1 Additional Low-Income Medicare Beneficiaries (ALMB). BEM 165, p. 1.

Each MSP category has different income limitations and income eligibility exists when net income is within the limits in RFT 242 or 247. BEM 165, p. 8. ALMB has the highest income limit of any MSP category, with an income limit of up to 135% of the FPL. BEM 165, p. 1. As of April 1, 2024, to be eligible for ALMB, a fiscal group of one has to have net income not exceeding \$1,714.25. RFT 242. Eligibility for MSP is subject to the same net income limitations and deductions as Ad-Care MA. BEM 165, p. 8; see also BEM 163, p. 2. Therefore, as explained previously, Petitioner's total net income is \$1,807 for purposes of determining her eligibility for MSP. (Exhibit A, pp. 48 – 49).

Because Petitioner's total net income of \$ [REDACTED] is more than the \$1,714.25 limit for a fiscal group-size of one for ALMB, and ALMB has the highest income limit for eligibility, the Department properly determined Petitioner was ineligible for MSP due to excess income.

It is noted that Petitioner testified that the verification of income she submitted to the Department at the time of her redetermination was not an accurate representation of her usual earnings. However, as discussed above and based on the income information available to it at the time it made its determination, the Department properly calculated Petitioner's income. If Petitioner's income has changed, she may report and provide

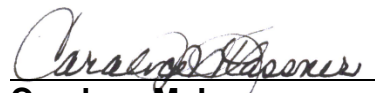
verification of those changes to the Department for consideration for future changes to her MA eligibility or deductible.

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 amount and denied Petitioner's MSP due to excess income for that MA program.

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 :

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