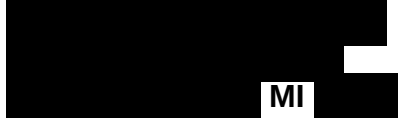




GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

MARLON I. BROWN, DPA
ACTING DIRECTOR



Date Mailed: November 1, 2023
MOAHR Docket No.: 23-005645
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 telephone hearing was held on October 30, 2023, via conference line. Petitioner was present and was unrepresented. The Department of Health and Human Services (Department) was represented by Ryan Kennedy, Hearing Facilitator.

ISSUE

Did the Department properly determine Petitioner's daughter's Medical Assistance (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's daughter was an ongoing MA recipient under the Ad-care MA program.
2. In July 2023, a redetermination was completed related to Petitioner's daughter's MA benefit case.
3. Petitioner's daughter received unearned income in the form of Retirement, Survivors and Disability Insurance (RSDI) in the gross monthly amount of \$[REDACTED].
4. On August 24, 2023, the Department sent Petitioner a Health Care Coverage Determination Notice informing Petitioner that his daughter was eligible for benefits under the Group 2 person under age 21 (G2U) MA program with a monthly deductible of \$1,078 effective October 1, 2023, ongoing (Exhibit A, pp. 7-11).

5. On September 7, 2023, Petitioner submitted a request for hearing disputing the Department's actions.

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.

In this case, Petitioner's daughter's MA eligibility was reviewed in July 2023. The Department determined that Petitioner's daughter was not eligible for MA benefits under a full-coverage MA program. The Department determined that Petitioner's daughter was eligible for MA under the G2U MA program subject to a monthly deductible.

As a disabled and/or aged individual, Petitioner's daughter is potentially eligible to receive MA benefits through AD-Care. AD-Care is an SSI-related full-coverage MA program. BEM 163 (July 2017), p. 1. It was not disputed that Petitioner's daughter receives \$[REDACTED] per month in RSDI benefits. As Petitioner's daughter is not married, per policy, her fiscal group size for SSI-related MA benefits is one. BEM 211 (July 2019), p. 8. The Department gives AD-Care budget credits for employment income, and guardianship and/or conservator expenses. BEM 541, p. 1. Petitioner testified that he is his daughter's court appointed guardian, and therefore, she is eligible for the guardianship deduction of \$83. Petitioner did not allege any of the other factors were applicable. Therefore, Petitioner's daughter's net income is \$[REDACTED]. Income eligibility for AD-Care exists when countable income does not exceed the income limit for the program. BEM 163 (July 2022), p. 2. The income limit for AD-Care for a one-person MA group is \$1,153. RFT 242 (April 2022), p. 1. Because Petitioner's daughter's monthly household income exceeds \$1,153, the Department properly determined Petitioner's daughter to be ineligible for MA benefits under AD-Care.

The Department also determined that Petitioner's daughter was not eligible for MA benefits under the Disabled Adult Children (DAC) MA program. MA is available to a person receiving DAC RSDI benefits under section 202(d) of the Social Security Act if he or she: (i) is age 18 or older; (ii) received SSI; (iii) ceased to be eligible for SSI on or after July 1, 1987, because she became entitled to DAC RSDI benefits under section 202(d) of the Act or an increase in such RSDI benefits; (iv) is currently receiving DAC

RSDI benefits under section 202(d) of the Act; and (v) would be eligible for SSI without such RSDI benefits. BEM 158 (October 2014), p. 1.

At the hearing, the Department determined that Petitioner's daughter was receiving RSDI, and that she had been denied SSI benefits, as a result of excess assets. Petitioner confirmed that his daughter was denied SSI due to excess assets, and that she began receiving RSDI based on his disability and her status as his child. As Petitioner's child had been determined as ineligible for SSI by the Social Security Administration, she is not eligible for DAC MA.

The Department determined that Petitioner's child was eligible for MA benefits under the G2U program. G2U is a Group 2 MA program. Group 2 eligibility for MA coverage is possible even when net income exceeds the income limit for full MA coverage. BEM 105, p. 1. In such cases, the client is eligible for MA coverage with a deductible, with the deductible equal to the amount the individual's net income (countable income minus allowable income deductions) exceeds the applicable Group 2 MA protected income level (PIL), which is based on the client's shelter area (county in which the client resides) and fiscal group size. BEM 135, p. 2; BEM 544, p. 1; RFT 240, p. 1. The Department determined Petitioner's daughter had a fiscal group of 1.

The deductible is in the amount that the client's net income (less any allowable needs deductions) exceeds the applicable Group 2 MA protected income levels (PIL); the PIL is based on the client's MA fiscal group size and the county in which she resides. BEM 105, p. 1; BEM 166, pp. 1-2; BEM 544 (January 2020), p. 1; RFT 240 (December 2013), p. 1; RFT 200 (April 2017), p. 2. The monthly PIL for a client in Petitioner's daughter's position, with an MA fiscal group size of one living in Macomb County, is \$408 per month. RFT 200, p. 2; RFT 240, p. 1. Thus, if Petitioner's daughter's monthly net income (less allowable needs deductions) is in excess of \$408, she is eligible for MA assistance under the deductible program, with the deductible equal to the amount that her monthly net income, less allowable deductions, exceeds \$408. BEM 545 (July 2022), pp. 2-3. The Department presented a copy of the G2U related MA net income budget showing the calculation of Petitioner's child's monthly deductible (Exhibit A, p. 9).

In determining the monthly deductible, net income is reduced by health insurance premiums paid by the MA group and remedial service allowances for individuals in adult foster care or homes for the aged. BEM 544, pp. 1-3. In this case, there was no evidence that Petitioner's daughter resides in an adult foster care home or home for the aged. Therefore, Petitioner's daughter is not eligible for any remedial service allowances. Petitioner's daughter was not entitled to the COLA exclusion (for January through March only) of \$115. Petitioner's daughter was also receiving Medicare Part B. There was evidence from Petitioner's daughter's State Online Query that the State of Michigan was paying Petitioner's daughter's Medicare Part B premium. Therefore, the Department acted in accordance with policy when it did not reduce the net income by any insurance premiums. Petitioner's net income of \$[REDACTED] reduced by the \$408 PIL is \$[REDACTED]. Therefore, the Department properly determined that Petitioner's daughter is

eligible for MA benefits under the G2U program subject to a monthly deductible of \$1,078.

DECISION AND ORDER

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 daughter's MA eligibility. Accordingly, the Department's decision is **AFFIRMED**.

EM/mp



Ellen McLemore

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 :

Interested Parties

MDHHS-Macomb-12-Hearings
EQAD Hearings
M. Schaefer
MOAHR
BSC4

Via-First Class Mail :

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]