



GRETCHEN WHITMER
GOVERNOR

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

MARLON BROWN DPA
DIRECTOR

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Date Mailed: April 18, 2024
MOAHR Docket No.: 24-002316
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 April 8, 2024. The Petitioner was represented by ██████████s. The Department of Health and Human Services (Department) was represented by Shana Bush, Eligibility Specialist. Ray Watkins observed the hearing.

ISSUE

Did the Department properly determine Petitioner's Medical Assistance (MA) Program 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. Effective December 2022, Petitioner had a Retirement Survivors Disability Insurance (RSDI) benefit of \$██████████ as a disabled survivor.
2. In ██████████ 2023, an MA application was submitted on behalf of Petitioner.
3. On September 11, 2023, the Department determined that Petitioner was not eligible for Disabled Adult Children (DAC) MA because Petitioner had never received Supplemental Security Income (SSI).
4. In July and September 2023, the Department issued a Health Care Coverage Determination Notice (HCCDN) to Petitioner advising her that she was ineligible for all MA programs except Plan First (PF).

5. On November 8, 2023, a decision was issued in Michigan Office of Administrative Hearings and Rules (MOAHR) docket number 23-006101 indicating that Petitioner was not eligible for Healthy Michigan Plan (HMP) due to excess income, not eligible for AD-care due to excess income, not eligible for DAC MA because Petitioner had never received SSI, but that Group 2-Aged, Blind, Disabled (G2S) eligibility needed to be redetermined.
6. Petitioner is ■ years old.
7. Effective January 1, 2024, Petitioner received \$■■■■■ in RSDI benefits and had a deduction of \$174.70 for her Medicare premiums.
8. On January 30, 2024, the Department completed its review and issued a Health Care Coverage Determination Notice (HCCDN) to Petitioner advising her that she was eligible for MA benefits with a deductible of \$1,866.0 for August 2023 through December 2023 and \$1,795.00 for January 2024, ongoing. The Department also determined that effective January 2024, Petitioner was ineligible for Medicare Savings Program (MSP) benefits due to income exceeding the income limit for the program.
9. On February 28, 2024, the Department received a request for hearing from ■■■■■■■■■■ on behalf of Petitioner disputing Petitioner's MA eligibility.

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 Authorized Hearings Representative (AHR) disputes the Department's determination of an MA deductible as well as denial of DAC MA benefits.

Disabled Adult Children MA

Pursuant to policy and federal regulations, to be eligible for DAC MA benefits, a person must be receiving DAC RSDI benefits under Section 202(d) of the Social Security Act, age 18 or older, previously received SSI, stopped being eligible for SSI on or after July 1, 1987 because of entitlement to DAC RSDI or an increase in RSDI benefits, is currently

receiving DAC RSDI benefits under Section 202(d), and would be eligible for SSI without such RSDI benefits. BEM 158 (October 2014), p. 1. Petitioner's AHR has repeatedly stated, and the Department has confirmed, that Petitioner has never received SSI. Therefore, Petitioner is not eligible for DAC MA benefits. BEM 158, p. 1.

Medicare Savings Program (MSP)

There are three categories for MSP. The Qualified Medicare Beneficiary (QMB) plan is the full coverage MSP and pays for Medicare premiums, coinsurances, and deductibles. BEM 165 (October 2022), pp. 1-2. The Specified Low-Income Medicare Beneficiary (SLMB) plan is a limited coverage MSP and pays Medicare Part B premiums. *Id.* A third MSP plan is the Additional Low-Income Medicare Beneficiary (ALMB) and it pays for Medicare Part B premiums if funding is available. *Id.* QMB.

Income determines placement in one of the categories. BEM 165, p. 1. For QMB, net income cannot exceed 100% of the federal poverty level, the same as AD-Care. *Id.* SLMB is available for individuals whose income is over 100% of the federal poverty level, but not more than 120% of the federal poverty level. *Id.* Finally, ALMB is available to those whose income exceeds 120% of the federal poverty level but does not exceed 135%. *Id.*

The 2023 federal poverty level and income limit for QMB for a one-person household is \$14,580.00 or \$1,215.00 per month. <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines/prior-hhs-poverty-guidelines-federal-register-references>; RFT 242 (April 2023), p. 1. The income limit for SLMB is \$17,496.00 or \$1,458.00 per month. *Id.* Finally, the income limit for ALMB is \$19,683.00 or \$1,640.25 per month. *Id.* The net income limit is established through policy by subtracting \$20.00 from the amount shown in RFT 242.

The 2024 federal poverty level and income limit for QMB for a one-person household is \$15,060.00 or \$1,255.00 per month. <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>. The income limit for SLMB is \$18,072.00 or \$1,506.00 per month. *Id.* Finally, the income limit for ALMB is \$20,331.00 or \$1,694.25 per month. *Id.*

Petitioner has a group size of one for MSP purposes because she is not married. BEM 211, p. 8. Countable income is calculated by adding the amounts of income actually received or reasonably anticipated within the month. BEM 530 (April 2020), p. 2. RSDI is considered countable income. BEM 503 (January 2023), pp. 29, 37. Petitioner has total gross income of \$██████ per month. Next, \$20.00 is subtracted for the general exclusion and Petitioner's Net Income is \$██████0. BEM 541 (January 2024), p. 3. No evidence was presented of any expenses for child support, work-related expenses, nor guardianship or conservator expenses. BEM 541, pp. 1-7. Therefore, Petitioner's Net Income is greater than the net income limit for all MSP categories. Petitioner is not eligible for MSP benefits.

Group 2-Under Age 21 (G2U)

Turning to the Department's determination of eligibility for MA with a deductible. The Department placed Petitioner in the G2U category.

The Department presented a FIP-Related MA (Adult) Net Income budget showing that Petitioner was eligible for MA benefits with a deductible of \$1,866.00 per month effective August 2023. The HCCDN also notes a reduced deductible effective January 1, 2024 in the amount of \$1,795.00. An individual under age 21 who is not eligible for MA under MAGI-related policies (as previously seen in MOAHR docket number 23-006101) is eligible for MA under a Group 2 Under 21 (G2U) category when the individual meets all eligibility requirements other than income. BEM 132 (April 2018), p. 1. In such cases, the client is eligible for MA coverage with a deductible, with the deductible equal to the amount the net income (countable income minus allowable income deductions) exceeds the applicable Group 2 MA protected income level (PIL). BEM 132, p. 2; BEM 544, p. 1. The PIL is based on the client's shelter area (county in which the client resides) and fiscal group size. BEM 132, p. 2; BEM 544, p. 1; RFT 240 (December 2013), p. 1; RFT 200 (April 2017), p. 3.

In Group 2 categories, the group is comprised of the individual's spouse and the individual's parents if the individual being evaluated for eligibility is a child (under age 18). BEM 211 (October 2023), pp. 4, 8. The PIL for Petitioner who is unmarried and lives in Macomb County is \$408.00 and it was correctly listed by the Department on the budget. BEM 211, p. 8; RFT 240, p. 1; RFT 200, p. 2.

Income eligibility exists when net income does not exceed the Group 2 needs in BEM 544 and all policies found in BEM 500, 530, and 536 are applied to determine net income. BEM 132, p. 2. The G2U net income calculation starts with determining Petitioner's net income. Because Petitioner does not have any earned income, work expenses, dependent care deductions, or child support, Petitioner's RSDI benefit is her net income or \$[REDACTED] from August through December 2023 and then \$[REDACTED] for January 2024, ongoing. BEM 500 (July 2017); BEM 536 (July 2019), p. 1-3. However, in MA cases, countable RSDI is the gross amount for the previous December when the month being tested is January, February, or March and federal law requires the cost-of-living adjustment increase received in January to be disregarded for these three months. BEM 503 (January 2023), p. 30. Therefore, Petitioner's RSDI of \$[REDACTED] is used for purposes of this decision. Next, guardianship and conservator expenses are considered, but no evidence was presented of Petitioner having these. Therefore, Petitioner's net income is her total net income.

The remainder of the calculations are governed by BEM 544 and 545. BEM 536, p. 7. Deductions are given for insurance premiums and remedial services. BEM 544, pp. 1-2. As discussed previously, Petitioner is not eligible for any MSP benefits at any point from August through December 2024. As a result, she is responsible for her Medicare premium and no evidence was presented regarding its cost; therefore, a decision cannot be rendered regarding the value of Petitioner's deductible for these months. However, evidence was presented regarding the Medicare premium for January 2024, ongoing, in

the amount of \$175 (rounded up to the nearest dollar). The next step is to consider remedial services. No evidence was presented of remedial services which produce the maximum reduction of physical and mental limitations and restore an individual to their best possible functioning level. BEM 544, p. 2. Remedial care services include basic self-care and rehabilitation training which teach and reinforce dressing, grooming, eating, bathing, toileting, and following simple instructions. BEM 544, p. 2. Remedial services do not include personal care services as defined in BEM 545. Once the health insurance premiums and remedial services are considered, the PIL is subtracted to calculate the deductible. After consideration of these three items, Petitioner's deductible for January through March 2024 is \$1,691.00. The Department has not properly calculated Petitioner's January 2024 through March 2024 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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner's MSP and G2U eligibility.

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 MSP and G2U eligibility effective August 2023, ongoing;
2. If otherwise eligible, issue supplements to Petitioner or on her behalf for benefits not previously received; and,
3. Notify Petitioner in writing of its decision.

AMTM/cc



Amanda M. T. Marler
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
BSC4-HearingDecisions
EQADHearings
M. Schaefer
MOAHR

Via-First Class Mail :

Petitioner

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Authorized Hearing Rep.

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