



GRETCHEN WHITMER
GOVERNOR

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

MARLON BROWN
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: May 29, 2024
MOAHR Docket No.: 24-002468
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 11, 2024, from Lansing, Michigan. [REDACTED] the Petitioner, appeared on his own behalf. The Department of Health and Human Services (Department) was represented by Rolando Gomez, Hearing Coordinator.

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-21 and the record was left open for additional documentation from the Department, which was received on April 22, 2024 and has been admitted as Exhibit B, p. 1.

ISSUE

Did the Department properly determine Petitioner's eligibility for Medical Assistance (MA) and the Medicare Savings Program (MSP)?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On February [REDACTED] 2024, Petitioner submitted a Redetermination for his MA and food benefits cases. (Exhibit A, pp. 6-13)
2. The Department determined that Petitioner exceeded the income limits for full coverage MA under the Adult Disabled (AD CARE) category and for the MSP but would be eligible for MA with a monthly deductible. (Exhibit A, pp. 14-16)

3. On February █ 2024, a Health Care Coverage Determination Notice was issued to Petitioner stating effective March 1, 2024 he would have a monthly deductible of \$█ for MA and he was no longer eligible for the MSP due to income in excess of the program limit (Exhibit A, pp. 17-21)
4. On February 26, 2024, Petitioner filed a hearing request contesting the Department's determination. (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.

The Medicaid program comprise several sub-programs or categories. BEM 105, January 1, 2024, p. 1.

Plan First MA is a MAGI-related limited coverage Medicaid group available to any United States citizen or individual with an immigration status entitling them to full Medicaid coverage residing in Michigan. The fiscal group's net income cannot exceed 195 percent of the federal poverty level. BEM 124, July 1, 2023, p. 1.

To receive MA under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. Medicaid eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, MICHild, Flint Water Group and Healthy Michigan Plan is based on Modified Adjusted Gross Income (MAGI) methodology. BEM 105, January 1, 2024, p. 1.

In general, the terms Group 1 and Group 2 relate to financial eligibility factors. For Group 1, net income (countable income minus allowable income deductions) must be at or below a certain income limit for eligibility to exist. The income limit, which varies by category, is for nonmedical needs such as food and shelter. Medical expenses are not used when determining eligibility for MAGI-related and SSI-related Group 1 categories. For Group 2, eligibility is possible even when net income exceeds the income limit. This is because incurred medical expenses are used when determining eligibility for Group 2 categories.

Group 2 categories are considered a limited benefit as a deductible is possible. BEM 105, January 1, 2024, p. 1.

Medicaid eligibility is determined on a calendar month basis. Unless policy specifies otherwise, circumstances that existed, or are expected to exist, during the calendar month being tested are used to determine eligibility for that month. When determining eligibility for a future month, assume circumstances as of the processing date will continue unchanged unless you have information that indicates otherwise. BEM 105, January 1, 2024, p. 2. This is consistent with 42 CFR § 435.603(h), which states that financial eligibility for Medicaid for applicants must be based on current monthly household income and family size.

MA AD CARE is an SSI-related group 1 MA category. This category is available to persons who are aged or disabled (AD). Net income cannot exceed 100% of the poverty level. BEM 163, July 1, 2017, p. 1.

The Department counts the gross benefit amount of SSA issued RSDI benefits as unearned income when determining eligibility. BEM 503, January 1, 2023, p. 29. The Department disregards the annual cost of living increase for RSDI for January, February, and March. BEM 503, January 1, 2023, p. 30.

The Department utilizes a Protected Income Level (PIL) in determining MA eligibility. The PIL is a set allowance for non-medical need items such as shelter, food and incidental expenses. BEM 544, January 1, 2020, p. 1. Lapeer County is part of Shelter Area V, which has a PIL of \$547.00 for a group size of three. RFT 200, April 1, 2017, p. 3 and RFT 240, December 1, 2013, p. 1.

For SSI related adults, the only deductions allowed to countable income are for court-ordered child support, blind/impairment related work expenses, allocation to non-SSI related children, a \$20.00 disregard, an earned income disregard of \$65.00 plus ½ of the remaining earnings, and Guardianship/Conservator expenses. BEM 541, January 1, 2024, pp. 1-7.

ALLOCATION TO NON-SSI-RELATED CHILDREN

Allocate parents' and stepparents' income to meet the needs of their non-SSI-related child(ren) living with them; see BEM 211. A non-SSI-related child is a child who:

- Is unmarried and under age 18; and
- Is **not** an SSI, FIP, SDA or title IV-E recipient; and
- Is **not** a department ward; and
- Is **not** an applicant for, or recipient of, MA based on disability or blindness.

Allocation Calculation

Calculate the allocation for each non-SSI-related child (defined above) separately as follows:

1. Determine the non-SSI-related child's countable unearned income; see BEM 500 and 530. Go to 2.
2. Determine the non-SSI-related child's countable earned income; see BEM 500 and 530. If the child is a full-time or half-time student (as determined by the institution), subtract \$135 from his countable earned income. Go to 3.
3. Add the non-SSI-related child's countable unearned income and his remaining earned income (1 + 2 above). Go to 4.
4. Deduct the following from the non-SSI-related child's remaining income (3 above):
 - Court-ordered support paid by the child, and
 - \$83 for guardianship/conservator expenses if verified paid by the child; see guardianship/conservator expenses in this item.

The income left after these deductions is called net income. Go to 5.

5. If the non-SSI-related child's net income (4 above) is less than \$472, the difference (\$472 minus net income) is the allocation to this non-SSI-related child. Otherwise, the allocation to this child is zero.

Note: Use \$458 for months in calendar year 2023.

Repeat steps 1-5 separately for each non-SSI-related child before proceeding to step 6.

6. Add up the individual allocations to get the total allocation. Go to 7.
7. Deduct the total allocation from the parents'/stepparents' countable unearned income first. If unearned income is reduced to zero, deduct the remainder of the total allocation from the parents'/stepparents' remaining earnings.

If the parent/stepparent has no countable unearned income, deduct the total allocation from the parents'/stepparents' remaining earnings.

Income eligibility exists for all or part of the month tested when there is no excess income or the medical group's allowable medical expenses equal or exceed the fiscal group's excess income. BEM 545, July 1, 2022, p. 1-3.

Deductible is a process which allows a client with excess income to become eligible for Group 2 MA if sufficient allowable medical expenses are incurred. Each calendar month is a separate deductible period. The fiscal group's monthly excess income is called a deductible amount. Meeting a deductible means reporting and verifying allowable medical expenses that equal or exceed the deductible amount for the calendar month tested. BEM 545, July 1, 2022, p. 10-12.

There are three categories that make up the MSP: Qualified Medicare Beneficiaries (QMB); Specified Low-Income Medicare Beneficiaries (SLMB); and Additional Low-Income Medicare Beneficiaries (ALMB). Income is the major determiner of category. For QMB net income cannot exceed 100% of poverty. For SLMB net income is over 100% of poverty, but not over 120% of poverty. For ALMB net income is over 120% of poverty, but not over 135% of poverty. BEM 165, October 1, 2022, p. 1.

RFT 242 addresses the income limits for aged or disabled MA (MA-AD) and the MSP categories. Effective April 1, 2023, for a group size of one the income limit for MA-AD and QMB is \$1,235.00; for SLMB the income limit is \$1,235.01 to \$1,478.00; and for ALMB the income limit is \$1,478.01 to \$1,660.25. The income limits are the applicable percentage of the FPL plus the \$20.00 disregard for RSDI income. RFT 242, April 1, 2023, p. 1.

In this case, the Department determined that Petitioner exceeded the income limit for full coverage MA under the AD CARE category, would have a monthly deductible for his MA benefits, and exceeded the income limit for the MSP. (Exhibit A, pp. 1 and 14-16). On February 2024, a Health Care Coverage Determination Notice was issued to Petitioner stating effective March 1, 2024 he would have a monthly deductible of \$ for MA and he was no longer eligible for the MSP due to income in excess of the program limit. (Exhibit A, pp. 17-21). Based on the information provided on the redetermination, the household size is three, Petitioner and two children. Petitioner and both children have income from RSDI benefits and the children each receive child support. (Exhibit A, pp. 6-8). The Department would have verified the income amounts. The Department considered the \$20.00 disregard, PIL of \$ and an allocation to non-SSI related children. There was no evidence that Petitioner had medical insurance premiums or any of the other allowable deductions (court-ordered child support, blind/impairment related work expenses, an earned income disregard of \$65.00 plus $\frac{1}{2}$ of the remaining earnings, or Guardianship/Conservator expenses). The Department also excluded \$55.00 for the annual cost of living increase for RSDI because the Department was reviewing eligibility effective in the month of March. (Exhibit A, pp. 14-16).

The parties questioned the amount of the allocation to the non-SSI related children. The local Department submitted a ticket for this case to request clarification and were advised the budgeted amount for the allocation to the non-SSI related children was correct.

(Hearing Coordinator Testimony). It appears that the Department verified that each child receives \$[REDACTED] in RSDI benefits and \$[REDACTED] in child support income, resulting in a total unearned income of \$[REDACTED] (Exhibit B, p. 1). Pursuant to the calculation found in BEM 541, The net unearned income for each child would be of \$[REDACTED]. The allocation to each child would then be \$[REDACTED] - \$[REDACTED] which equals \$[REDACTED]. Accordingly, the total unearned allocation to both children is \$[REDACTED].

Petitioner testified he let the Department know about his bills and expenses. (Exhibit A, p. 8; Petitioner Testimony). However, the policies require the use of the PIL and do not allow for consideration of the expenses Petitioner listed on the Redetermination form (rent, utilities, home and auto insurance, phone, and Wi-Fi) when determining MA eligibility.

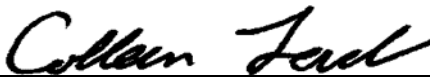
This Administrative Law Judge has no authority to change or make any exceptions to the applicable regulations and policy, which require a monthly deductible when there is excess income. Overall, the evidence establishes that the Department properly determined Petitioner's eligibility for MA based upon the available information.

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 eligibility for MA.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

CL/dm



Colleen Lack
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 :

DHHS
Tamara Jackson
Lapeer County DHHS
MDHHS-Lapeer-
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SchaeferM

EQADHearings

BSC2HearingDecisions

MOAHR

Via-First Class Mail :

Petitioner
[REDACTED]
[REDACTED]
[REDACTED]