



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: June 25, 2024  
MOAHR Docket No.: 24-003554  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun**

### **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, an in-person hearing was held on June 13, 2024, from Hamtramck, Michigan. Petitioner appeared for the hearing with his daughter [REDACTED] and represented himself. The Department of Health and Human Services (Department) was represented by Yasser Chami, Assistance Payments Supervisor.

### **ISSUE**

Did the Department properly determine Petitioner's eligibility for Medical Assistance (MA) benefits?

### **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 and his wife [REDACTED] were ongoing recipients of MA benefits.
2. On or around [REDACTED] 2024, an application for MA benefits was submitted to the Department requesting MA benefits for Petitioner's adult daughter [REDACTED] as she was now a member of Petitioner's household. The Department reviewed MA eligibility for the household.
3. On or around March 11, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice (Notice) advising him that effective April 1, 2024, he and his wife were eligible for MA subject to a monthly deductible of \$1,545. (Exhibit A, pp. 15-20)

4. Petitioner confirmed that his fiscal group includes himself and his wife, that he is age [REDACTED] and his wife is age [REDACTED] that both he and his wife are enrolled in Medicare, that his wife receives a monthly pension of [REDACTED] and Retirement Survivors Disability Insurance (RSDI) or Social Security benefits in the gross monthly amount of [REDACTED] and that he receives Social Security monthly of [REDACTED]
5. On or around March 27, 2024, Petitioner requested a hearing disputing the Department's actions regarding MA eligibility for himself and his wife. (Exhibit A, pp. 3-4)

### **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 disputed the Department's determination that he and his wife were eligible for MA under a deductible based program.

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, (iii) to individuals who meet the eligibility criteria for Healthy Michigan Plan (HMP) coverage, and (iv) to individuals who meet the eligibility criteria for Plan First Medicaid (PF-MA) coverage. 42 CFR 435.911; 42 CFR 435.100 to 435.172; BEM 105 (October 2023), p. 1; BEM 137 (June 2020), p. 1; BEM 124 (July 2023), p. 1. Under federal law, an individual eligible under more than one MA category must have eligibility determined for the category selected and is entitled to the most beneficial coverage available, which is the one that results in eligibility and the least amount of excess income or the lowest cost share. BEM 105, p. 2; 42 CFR 435.404.

HMP is a MAGI-related MA category that provides MA coverage to individuals who (i) are 19 to 64 years of age; (ii) have income under the MAGI methodology at or below 133% of the federal poverty level (FPL); (iii) do not qualify for or are not enrolled in Medicare; (iv) do not qualify for or are not enrolled in other MA programs; (v) are not

pregnant at the time of application; and (vi) are residents of the State of Michigan. BEM 137, p. 1; 42 CFR 435.603.

Because Petitioner and his wife are both either over age 64 and/or enrolled in Medicare, they are not eligible for full coverage MA under the HMP. Thus, the Department properly concluded that Petitioner and his wife were eligible for SSI-related MA, which is MA for individuals who are blind, disabled or over age 65. BEM 105, p. 1. Individuals are eligible for Group 1 coverage, with no deductible, if their income falls below the income limit, and eligible for Group 2 coverage, with a deductible that must be satisfied before MA is activated, when their income exceeds the income limit. BEM 105, p. 1. Ad-Care coverage is a SSI-related Group 1 MA category which must be considered before determining Group 2 MA eligibility. BEM 163 (July 2017), p. 1. Eligibility for Ad-Care is based on the client meeting nonfinancial and financial eligibility criteria. BEM 163, pp. 1-2. The eligibility requirements for Group 2 MA and Group 1 MA Ad-Care are the same, other than income. BEM 166 (April 2017), pp. 1-2.

Income eligibility for the Ad-Care program is dependent on MA fiscal group size and net income which cannot exceed the income limit in RFT 242. BEM 163, p. 2. Petitioner and his wife have a MA fiscal group of two. BEM 211 (October 2023), pp. 5-8. Effective April 1, 2024, an MA fiscal group with two members is income-eligible for full-coverage MA under the Ad-Care program if the group's net income is at or below \$1,723.50, which is 100 percent of the Federal Poverty Level, plus the \$20 disregard. RFT 242 (April 2024), p. 1.

The Department is to determine countable income according to SSI-related MA policies in BEM 500 and 530 *except* as explained in the countable RSDI section of BEM 163. The Department will also apply the deductions in BEM 540 (for children) or 541 (for adults) to countable income to determine net income. BEM 163, p. 2. The Department asserted that Petitioner and his wife had excess income for the Ad-Care program. The Department representative testified that it considered Petitioner's unearned income, which totaled [REDACTED] and was based on his wife's pension of [REDACTED] his wife's gross monthly RSDI/Social Security benefits of [REDACTED] and Petitioner's gross monthly RSDI/Social Security of [REDACTED]. The Department also properly considered the unearned income general exclusion of \$20 to determine that Petitioner had countable income of [REDACTED].

After further review of Department policy and based on the testimony provided at the hearing, because Petitioner's fiscal group's countable income exceeds the net income limit for the Ad-Care program, the Department acted in accordance with Department policy when it determined that Petitioner and his wife were ineligible for full coverage MA benefits under the Ad-Care program without a deductible and determined that they would be eligible for MA under the Group 2 Aged Blind Disabled (G2S) program with a monthly deductible.

Additionally, 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.

BEM 545 (July 2022), p. 10. Individuals are eligible for Group 2 MA coverage when net income (countable income minus allowable income deductions) does not exceed the applicable Group 2 MA protected income levels (PIL), which is based on shelter area and fiscal group size. BEM 105, pp. 1-2; BEM 166, pp. 1-2; BEM 544 (January 2020), p. 1; RFT 240 (December 2013), p. 1. The PIL is a set allowance for non-medical need items such as shelter, food and incidental expenses. BEM 544, p. 1. The monthly PIL for an MA group of two living in ██████ County is ██████ per month. RFT 200 (April 2017), pp. 1-2; RFT 240, p. 1. Thus, if Petitioner and his wife's net monthly income is in excess of the ██████ they may become eligible for assistance under the deductible program, with the deductible being equal to the amount that his monthly income exceeds ██████ BEM 545, p. 1. To meet a deductible, a MA client must report and verify allowable medical expenses (defined in Exhibit I) that equal or exceed the deductible amount for the calendar month being tested. The group must report expenses by the last day of the third month following the month in which client wants MA coverage. BEM 545, p. 11. The Department is to add periods of MA coverage each time the group meets its deductible. BEM 545, p.11

The Department determined that effective April 1, 2024, Petitioner and his wife were eligible for MA under the G2S category with a monthly deductible of \$1,545. At the hearing, the Department representative presented the SSI-Related Medicaid Income Budget to explain the \$1,545 deductible calculation. (Exhibit B). As referenced above, the Department properly considered unearned income from pension and RSDI/Social Security in the gross total amount of ██████

The Department also properly applied a \$20 unearned income exclusion to determine that Petitioner's group had net unearned income for MA purposes of ██████ Petitioner confirmed that he and his wife are not responsible for monthly insurance premiums, as the Department is paying Medicare premiums through the Medicare Savings Program. Although there was some evidence that Petitioner had some medical expenses for consideration, there was no evidence presented that Petitioner submitted any verification of ongoing or one time medical expenses to the Department prior to the hearing. Petitioner also testified that he and his wife are responsible for monthly expenses for personal care services. Petitioner was advised that pursuant to BEM 545, the costs of some personal care services may be considered allowable medical expenses for application to the monthly deductible. Petitioner was informed that should he submit the expenses to the Department in accordance with BEM 545, the Department would review the expenses and determine their applicability to Petitioner's monthly deductible. There was no evidence that Petitioner was entitled to any additional deductions to income such as guardianship/conservator expenses or remedial services.

Upon review, the Department properly considered Petitioner's unearned income and took into consideration the appropriate deductions to income. Based on the evidence presented, because Petitioner's countable income of ██████ for MA purposes exceeds the monthly protected income level of ██████ by ██████ the Department properly calculated Petitioner and his wife's monthly ██████ MA deductible in accordance with Department policy. Therefore, based on the information relied upon by the Department,


the Department properly determined that effective April 1, 2024, Petitioner and his wife were eligible for MA under the G2S program with a monthly deductible of \$1,545.

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 benefits.

**DECISION AND ORDER**

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

ZB/ml

  
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**Zainab A. Baydoun**  
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**  
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**Interested Parties**

BSC4  
M Schaefer  
EQAD  
MOAHR

**Via First Class Mail:**

**Petitioner**

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