



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 23, 2024  
MOAHR Docket No.: 24-005205  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: L. Alisyn Crawford**

**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 June 20, 2024. Petitioner was represented by his son [REDACTED] Authorized Hearing Representative (AHR). The Department of Health and Human Services (Department) was represented by Sunshine Simonson, Eligibility Specialist.

**ISSUE**

Did the Department properly determine that Petitioner and his spouse (Wife) were ineligible for Medicare Savings Program (MSP) benefits due to excess income?

Did the Department properly determine Petitioner and Wife'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 and Wife are ongoing recipients of MA.
2. Petitioner is [REDACTED] years old, and Wife is [REDACTED] years old. (Exhibit A, p. 30).
3. Petitioner and Wife receive unearned income from Social Security Administration in the form of Retirement, Survivor's, and Disability Insurance (RSDI) benefits in the amounts of [REDACTED] and [REDACTED] respectively. (Exhibit A, p. 30).
4. On April 10, 2024, the Department sent a Health Care Coverage Determination Notice (HCCDN) to Petitioner and Wife informing them that effective June 1, 2023

they were not eligible for MSP due to their income exceeding the income limit for the program. (Exhibit A, pp. 7-10). The HCCDN further explained that effective May 1, 2024 ongoing, both Petitioner and Wife were eligible for MA under the Plan First Family Planning (PFFP) program, a limited coverage program. (Exhibit A, p. 7).

5. On April 24, 2024, Petitioner filed a request for hearing disputing the Department decisions concerning himself and Wife's MA coverage and MSP denial. (Exhibit A, pp. 3-6).

### **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 disputes the Department's determination that he and Wife are eligible for MA under a deductible based program and the Department's determination that they have excess income for MSP eligibility.

#### **MA**

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 (January 2024), p. 1; BEM 137 (January 2024), 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 (January 2021), p. 2; 42 CFR 435.404.

Because Petitioner and Wife are over age 65 and enrolled in Medicare, the Department properly concluded that they were both potentially eligible for SSI-related MA, which is MA for individuals who are blind, disabled or over age 65. BEM 105, p. 1. Based on their ages, Petitioner and Wife were potentially eligible for MA coverage under the AD-Care

program, which 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. However, net income for this program cannot exceed 100% of the Federal Poverty Level (FPL). BEM 163, p. 1. Married individuals who apply for SSI-related MA are a fiscal group size of two. BEM 211 (October 2023), p. 8. Because Petitioner and Wife are married, to be income eligible for this program, their income would have had to be [REDACTED] or less for a fiscal group-size of two. RFT 242 (April 2024).

In this case, Petitioner and Wife receive RSDI in the amount of [REDACTED] and [REDACTED] respectively. (Exhibit A, p. 30). 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; see also BEM 163. The Department properly determined the fiscal group's net unearned income was [REDACTED] + [REDACTED] = [REDACTED] - \$20 = net unearned income of [REDACTED] (Exhibit A, p. 31). This amount is more than 100% of the FPL and therefore, the Department acted in accordance with Department policy when it determined that Petitioner and Wife were not eligible for MA coverage under AD-Care.

The Department determined that Petitioner was eligible for Group 2 Aged, Blind, and Disabled (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 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 [REDACTED] County, where Petitioner and Wife reside, for their two-person fiscal group, is [REDACTED] RFT 200 (April 2017), p. 2; RFT 240 (December 2013), p. 1.

The Department presented a G2S budget showing its calculation of the deductible. As described above, Petitioner's fiscal group's net income is [REDACTED]. From Petitioner's net income, the Department subtracts allowable needs deductions, consisting of health insurance premiums of the MA group and remedial services costs for individuals in adult foster care homes or homes for the aged. BEM 544, pp. 1-2. No evidence was introduced that Petitioner and Wife were in homes for the aged or adult foster care home and received remedial services. However, Petitioner and Wife are each responsible for paying out of pocket for their Medicare Part B premium. Based on the budget provided by the Department, only \$164.90 was deducted for insurance premiums. (Exhibit A, p. 31). However, at the hearing, the AHR testified that Petitioner pays \$174.70 for his Medicare Part B premium, and therefore it appears the budget only included the Part B premium Wife pays. Because the deductible budget did not include the correct allowable need amount for Petitioner and Wife's Medicare Part B premiums, the Department did not act

in accordance with Department policy when it calculated Petitioner and Wife's monthly deductible amount under the G2S program.

### **MSP**

The Department also determined that Petitioner was not eligible for MSP benefits.

MSP a State-administered SSI-related MA program in which the State pays an income-eligible client's Medicare premiums, coinsurances, and deductibles. There are three MSP categories: Qualified Medicare Beneficiaries (QMB); Specified Low-Income Medicare Beneficiaries (SLMB); and Additional Low-Income Beneficiaries (ALMB). BEM 165 (October 2022), p. 1. QMB is a full coverage MSP that pays Medicare premiums (Medicare Part B premiums and Part A premiums for those few people who have them), Medicare coinsurances, and Medicare deductibles. SLMB pays Medicare Part B premiums, and ALMB pays Medicare Part B premiums provided funding is available. BEM 165, pp. 1-2.

Income is the major determiner of category for MSP programs. The monthly net income limits for Petitioner and Wife's fiscal group size of two for ALMB eligibility, which has the highest net income limit of the three MSP categories, is [REDACTED] plus the \$20 disregard for RSDI income. RFT 242 (April 2024), p.1; BEM 165, pp. 1-2, 8-10.

As noted above, Petitioner and Wife's net income is [REDACTED] which is over the income limit for the ALMB MSP program. Therefore, the Department acted in accordance with Department policy when it denied Petitioner and Wife for the MSP ALMB program due to excess income.

At the hearing, the AHR also argued that Petitioner's MA budget should also consider losses from his business. However, the Department credibly testified that Petitioner had reported no longer having a business in 2021. Because he had not since reported any business activity, the Department properly did not consider the business in determining Petitioner's MA eligibility.

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 that Petitioner and Wife were not income-eligible for MA coverage under the AD-Care program or MSP. The Department did not act in accordance with Department policy when it calculated Petitioner and Wife's monthly deductible under the G2S program.

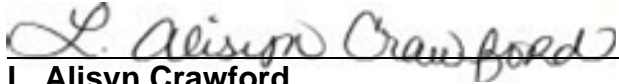
**DECISION AND ORDER**

Accordingly, the Department's decision is **REVERSED** with respect to the Department's calculation of Petitioner and Wife's monthly deductible under the G2S program.

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 and Wife's G2S deductible for May 1, 2024 ongoing; and
2. Notify Petitioner, Wife, and the AHR of its decision in writing.

LC/ml

  
**L. Alisyn Crawford**  
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:**

**Respondent**

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**Interested Party**

BSC4  
M Schaefer  
EQAD  
MOAHR

**Via First Class Mail:**

**Authorized Hearing Rep.**

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

**Petitioner**

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