



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

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DIRECTOR

[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: August 7, 2024
MOAHR Docket No.: 24-006080
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, a telephone hearing was held on July 18, 2024, from Detroit, Michigan. Petitioner appeared for the hearing and represented himself. Petitioner's daughter [REDACTED] appeared with Petitioner and served as Arabic interpreter. The Department of Health and Human Services (Department) was represented by Danielle Moton, Assistance Payments Worker.

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 were previously approved for MA under the Healthy Michigan Plan (HMP).
2. In connection with a redetermination, MA eligibility for the household was reviewed.
3. Petitioner and his wife are both employed. Petitioner and his wife file taxes jointly and claim one minor child as a tax dependent. Petitioner was unsure whether his adult daughter [REDACTED] was claimed as a dependent on his tax return.

4. On or around March 27, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice (Notice) advising that effective May 1, 2024, Petitioner and his wife were eligible for MA under the limited coverage Plan First (PF) MA program. (Exhibit A, pp. 21-24)
5. Although not reflected on the Notice, the Department asserted that Petitioner and his wife were not eligible for the HMP MA category due to excess income.
6. On or around May 20, 2024, Petitioner requested a hearing disputing the Department's actions with respect to MA benefits for himself and his wife. (Exhibit A, pp. 3-5)
7. On or around May 31, 2023, the Department sent Petitioner a Notice advising that effective May 1, 2024, he and his wife were approved for MA subject to a monthly deductible of \$2,374. (Exhibit A, pp. 25-31)
8. The Department determined that Petitioner and his wife were eligible for MA under the Group 2 Caretaker Relatives (G2C) category.

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.

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 (July 2021), 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 (January 2021), p. 2; 42 CFR 435.404. 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. Group 2 categories are considered a limited benefit because a deductible is possible. BEM 105, p. 1.

In this case, Petitioner requested a hearing to dispute the Department's actions regarding the MA program, specifically, the transfer of MA from the full coverage HMP category to the limited coverage G2C with a monthly deductible. At the hearing, the Department representative testified that prior to the redetermination, Petitioner and his wife were both approved for MA under the HMP. However, after processing the redetermination, the Department determined that based on the household's income, Petitioner and his wife were no longer eligible for HMP or a full coverage MA program.

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.

An individual is eligible for HMP if the household's MAGI-income does not exceed 133% of the FPL applicable to the individual's group size. An individual's group size for MAGI purposes requires consideration of the client's tax filing status and dependents. Petitioner files taxes jointly with his wife and claims one minor child as a dependent. Although Petitioner indicated his adult daughter [REDACTED] may be claimed as a tax dependent, Petitioner did not present any evidence to confirm his testimony and his testimony was conflicting as to whether she was a tax dependent. Thus, the Department properly determined that Petitioner's household size for HMP purposes is three. Family size means the number of persons counted as members of an individual's household. 42 CFR 435.603(b). Therefore, for HMP purposes, Petitioner has a household size of three. The FPL for a group size of three in 2024 is [REDACTED] 133% of the annual FPL in 2024, for a household with three members is [REDACTED]. See <https://aspe.hhs.gov/poverty-guidelines>. Therefore, to be income eligible for HMP, Petitioner's annual income cannot exceed [REDACTED] and thus, the monthly income cannot exceed [REDACTED] as he was a current beneficiary. Additionally, Department policy provides that if an individual's group's income is within 5% of the FPL for the applicable group size, a disregard is applied, making the person eligible for MA. MREM, § 7.2; BEM 500 (April 2022), pp. 3-5. With the 5% disregard applied, the household income limit is [REDACTED] or [REDACTED] monthly.

To determine financial eligibility under HMP, income must be calculated in accordance with MAGI under federal tax law. 42 CFR 435.603(e); BEM 500 (April 2022), p. 3. MAGI is based on Internal Revenue Service rules and relies on federal tax information. *Id.* To determine income in accordance with MAGI, a client's adjusted gross income (AGI) is added to any tax-exempt foreign income, tax-exempt Social Security benefits, and tax-exempt interest. Alternatively, it is calculated by taking the "federal taxable wages" for each income earner in the household as shown on the paystub or, if not shown on the

paystub, by using gross income before taxes reduced by any money the employer takes out for health coverage, child care, or retirement savings. See <https://www.healthcare.gov/income-and-household-information/how-to-report/>. When determining financial eligibility of current beneficiaries of MAGI-related MA, the State of Michigan has elected to base eligibility on current monthly income and family size. Additionally, the Department is to consider reasonably predictable changes in income. For individuals who are seasonal workers who know that they will only work for some portion of the year, the Department will consider the reasonably predictable future income decrease within the upcoming 12 months. The seasonal income reported will be averaged to arrive at a monthly amount, which is then added to any other non-fluctuating income. Michigan Medicaid State Plan Amendment Transmittal 17-0100, effective November 1, 2017 and approved by the Center for Medicare and Medicaid Services on March 13, 2018 available at https://www.michigan.gov/mdhhs/-/media/Project/Websites/mdhhs/Folder3/Folder80/Folder2/Folder180/Folder1/Folder280/SPA_17-0100_Approved.pdf.

In this case, the Department representative testified that Petitioner submitted paystubs for himself and his wife in connection with the redetermination. The Department identified each of the paystubs relied upon in the MAGI determination and testified that it specifically considered Petitioner's gross weekly pay of [REDACTED] and his wife's gross biweekly pay of [REDACTED]. Thus, Petitioner's monthly income is [REDACTED] and his wife's monthly income is [REDACTED]. At the hearing, Petitioner confirmed that the pay stubs relied upon by the Department were accurate at the time the redetermination was completed. However, Petitioner testified that as of the hearing date, his income has decreased to [REDACTED] weekly and his wife is no longer working in the summer. Petitioner testified that his wife is a preschool teacher aide and does not receive any pay during the summer months. Petitioner testified that his wife works from September to June every school year. There was no evidence that the Department was aware or that Petitioner previously notified the Department of Petitioner's wife's lack of employment and pay during the summer months. Because the Department did not have any knowledge prior to the hearing that Petitioner's wife was only working for some portion of the year, the Department properly relied on the paystub submitted in connection with the redetermination. Petitioner was informed that his updated pay stubs and his wife's seasonal employment information could be submitted to the Department and a more current MA eligibility determination would be made.

However, based on the information available to the Department at the time the redetermination was completed, the household's monthly MAGI of [REDACTED] is greater than the income limit identified above. Therefore, the Department properly concluded that Petitioner and his wife were not eligible for MA benefits under the HMP.

Although Petitioner and his wife were not eligible for HMP coverage, as parents, they are potentially eligible for MA under the Group 2 Caretaker Relative (G2C) program. At the hearing, the Department representative testified that as of May 1, 2024, Petitioner and his wife were eligible for MA under the G2C subject to a monthly deductible of \$2,374.

Group 2 eligibility for MA coverage is possible even when net income exceeds the income limit for full MA coverage. BEM 105 (January 2021), p. 1. For Group 2 categories, there is a monthly deductible equal to the amount the household's monthly net income (countable income minus allowable income deductions) exceeds the applicable Group 2 MA protected income level (PIL). PIL is based on the fiscal group size for Group 2 MA categories and the county of residence. BEM 135, p. 2; BEM 544 (July 2013), p. 1; RFT 240 (December 2013), p. 1. See BEM 105 (January 2016), p. 2; BAM 220 (January 2016), pp. 17-19; BAM 210 (January 2016), p. 1; BEM 135 (October 2015), p. 1. A fiscal group is established for each person requesting MA and budgetable income is determined for each fiscal group member. The Department is to use the policies in BEM 500 and BEM 530 to determine each fiscal group member's countable earned income. BEM 211 (July 2019); BEM 536 (July 2019), p. 1.

In determining a person's eligibility and their fiscal group however, the only income that may be considered is the person's own income and the income of the following persons who live with the client: the client's spouse, and the client's parents if the client is a child. This means that a child's income cannot be used to determine a parent's eligibility. BEM 211, p. 5. Additionally, for the G2C category, an adult's fiscal group is the adult and the adult's spouse. Therefore, with respect to Petitioner and his wife's deductible, the monthly PIL for their two person fiscal group living in █████ County is █████ per month. BEM 211, pp.5-9; RFT 200, p 1; RFT 240, p 1. A multi-step process is then utilized when determining a fiscal group member's income and deductible. BEM 536, pp. 1-7. Thus, if net monthly income is in excess of the applicable █████ PIL, Petitioner may become eligible for assistance under the deductible program, with the deductible being equal to the amount that the monthly income exceeds █████ BEM 545, p 1.

The Department produced a G2-FIP Related (MA) Adult Net Income results budget which was reviewed to determine if the Department properly calculated Petitioner's deductible (Exhibit A, p. 20). The Department testified that in calculating income for MA purposes, it considered Petitioner's monthly earnings of █████ (based on his weekly pay of █████ and monthly earnings for Petitioner's wife of █████ (based on her biweekly pay of █████). A standard work expense of \$90 is deducted from the countable earnings of each fiscal group member with earnings. Petitioner and his wife are not eligible for the \$30 plus 1/3 disregard, as there was no evidence presented that the household received FIP or LIF in the four months prior to the redetermination. Additionally, there was no evidence that Petitioner and his wife were eligible for any dependent care deduction and no evidence that Petitioner received any child support earnings or that he had a responsibility for child support expenses. BEM 536, pp. 1-7.

Following the steps contained in BEM 536, the number of dependents (under the age of 18) living with the fiscal group member is also determined. This number is added to 2.9 to determine the prorated divisor. BEM 536, pp.1-5. In this case, because Petitioner and his wife are married and have one child under age 18 living in the home, the prorated divisor is 4.9. BEM 536, pp. 3-5. There were no additional eligible needs-based deductions or ongoing medical expenses.


Upon review, the Department properly calculated each of the fiscal group members' net income and determined that they had net income of [REDACTED]. Because [REDACTED] exceeds the [REDACTED] PIL by \$2,374, the Department properly calculated Petitioner's MA deductible of \$2,374 effective May 1, 2024.

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 MA eligibility for Petitioner and his wife under the G2C subject to a monthly deductible of \$2,374. As referenced above, Petitioner was informed that his updated pay stubs and his wife's seasonal employment information could be submitted to the Department and a more current MA eligibility determination would be made.

DECISION AND ORDER

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

ZB/ml



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:

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Via First Class Mail:

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