



GRETCHEN WHITMER
GOVERNOR

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

MARLON BROWN
DIRECTOR

████████████████████
████████████████████
████████████████████

Date Mailed: August 20, 2024
MOAHR Docket No.: 24-006144
Agency No.: ██████████
Petitioner: ██████ ██████

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 July 25, 2024, from Lansing, Michigan. ██████ ██████ the Petitioner, appeared on his own behalf. The Department of Health and Human Services (Department) was represented by Daniel Sefton, Assistance Payments Worker (APW).

During the hearing proceeding, the Department’s Hearing Summary packet was admitted as Exhibit A, pp. 1-11.

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. Petitioner started receiving MA benefits under the Freedom to Work (FTW) category on April 1, 2022. (Exhibit A, p. 2; APW Testimony)
2. On April ██████ 2024, Petitioner submitted paycheck verifications. (Exhibit A, pp. 9-10)
3. During a May ██████ 2024 phone conversation, Petitioner requested Medicare Savings Program (MSP) benefits. (Exhibit A, pp. 2 and 11)
4. On May ██████ 2024, a Health Care Coverage Determination Notice was issued to Petitioner stating he was eligible for MA under the FTW category with an estimated

premium amount of \$ [REDACTED] effective June 1, 2024 and he was not eligible for the MSP because he does not meet basic criteria for this program. (Exhibit A, pp. 5-8)

5. On May 20, 2024, Petitioner filed a hearing request contesting the Department's determination. (Exhibit A, p. 3)

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. 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. 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.

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.

Group 2 aged, blind, and disabled (Group 2 MA) is an SSI related MA category that available to a person who is aged (65 or older), blind or disabled. BEM 105, January 1, 2024, p. 5; BEM 166, April 1, 2027, 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.

The Department counts the gross benefit amount of Social Security Administration issued Retirement Survivors Disability Insurance (RSDI) benefits as unearned income when determining eligibility. BEM 503, April 1, 2024, p. 30. The Department disregards the annual cost of living increase for RSDI for January, February, and March. BEM 503, January 1, 2023, pp. 30-31.

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. Chippewa County is part of Shelter Area II, which has a PIL of \$341.00 for a group size of one. 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.

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, 2024, for a group size of one the income limit for MA-AD and

QMB is \$1,275.00; for SLMB the income limit is \$1,275.01 to \$1,526.00; and for ALMB the income limit is \$1,526.01 to \$1,714.25. The RFT 242 policy notes that these amounts are the applicable percentage of the federal poverty limit plus the \$20.00 disregard for RSDI income. RFT 242, April 1, 2024, p. 1.

MA Freedom to Work (FTW) is an SSI-related Group 1 MA category. FTW is available to a client with disabilities age 16 through 64 who has earned income. Eligibility begins the first day of the calendar month in which all eligibility criteria are met. All eligibility factors must be met in the calendar month being tested. BEM 174, January 1, 2020, p. 1. Initial income eligibility exists when the client's countable income does not exceed 250 percent of the Federal Poverty Level (FPL). Ongoing eligibility exists when the client's unearned income does not exceed 250 percent of the FPL. BEM 174, January 1, 2020, p. 3. There are no premiums for individuals with MAGI (Modified Adjusted Gross Income) income less than 138 percent of the federal poverty level (FPL). A premium of 2.5 percent of their income will be charged for an individual with MAGI income between 138 percent of the FPL and \$75,000 annually. A premium of 100 percent of the average FTW participant cost will be assessed for an enrolled individual with MAGI income over \$75,000. BEM 174, January 1, 2020, p. 3. However, a client eligible for MA under FTW is not eligible for ALMB. BEM 174, January 1, 2020, p. 4.

In this case, the Department determined that Petitioner was eligible for Medicaid under the FTW category. Petitioner questioned why he was in the FTW category because he never asked to be on this program. (Petitioner Testimony). The APW explained that the Department verified Petitioner's income from RSDI benefits with a SOLQ report and utilized the recent paycheck verifications Petitioner submitted. Petitioner's current monthly income was \$ [REDACTED] (Exhibit A, pp. 9-10; APW Testimony). This exceeded the income limit for full coverage MA under the MA-AD Care category of \$1,275.00 effective April 1, 2024. As indicated on the May 15, 2024, Health Care Coverage Determination Notice, Petitioner was eligible for MA under the FTW category with an estimated premium amount of \$53.68 effective June 1, 2024. (Exhibit A, p. 5). If Petitioner had not been eligible for MA-FTW, he would have had a large monthly deductible for MA coverage. Accordingly, the most beneficial category of MA Petitioner was eligible for was the FTW category based on the available information.

Regarding the MSP, because Petitioner is eligible for MA under the FTW category, he is only potentially eligible for the MSP under the QMB and SLMB categories. An individual eligible for MA under FTW is not eligible for ALMB. BEM 174, January 1, 2020, p. 4. Effective April 1, 2024, for a group size of one the income limit for MA-AD and QMB is \$1,275.00; for SLMB the income limit is \$1,275.01 to \$1,526.00. RFT 242, April 1, 2024, p. 1. Petitioner's current monthly income was \$ [REDACTED] (Exhibit A, pp. 9-10; APW Testimony). Accordingly, Petitioner was not eligible for the MSP because his income exceeded the applicable limits for this program. However, even if Petitioner could have been considered under the ALMB category, his income also exceeded the applicable income limit for the ALMB category of \$1,526.01 to \$1,714.25. RFT 242, April 1, 2024, p. 1.

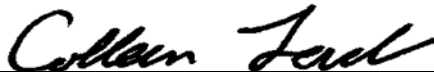
This Administrative Law Judge has no authority to change or make any exceptions to the applicable regulations and policy, which include the income limits. Overall, the evidence establishes that the Department properly determined Petitioner's eligibility for MA based upon the available information.

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 and the MSP.

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
Andrea Stevenson - 17
Chippewa County DHHS
MDHHS-
906EUPHearings@michigan.gov

SchaeferM

EQADHearings

BSC1HearingDecisions

MOAHR

Via-First Class Mail :

Petitioner

████████████████████
████████████████████
██