



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

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Date Mailed: August 15, 2024
MOAHR Docket No.: 24-006147
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Linda Jordan

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 hearing was held on July 25, 2024, via teleconference. Petitioner appeared and represented himself. Linda Cortes, Family Independence Manager, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department). MDHHS' Hearing Packet was admitted at the hearing as MDHHS Exhibit A, pp. 1-39.

ISSUE

Did MDHHS properly determine Petitioner's eligibility for Medicaid (MA) coverage?

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 ██████████ 2024, Petitioner applied for MA (Exhibit A, p. 5).
2. On January 22, 2024, MDHHS sent Petitioner a Verification Checklist (VCL) requesting proof of his bank statements and assets (Exhibit A, pp. 21-22). The proofs were due by February 1, 2024 (Exhibit A, p. 21).
3. On ██████████ 2024, Petitioner returned a checking account statement from ██████████ which showed an ending balance of ██████████ (Exhibit A, p. 23).
4. On February 23, 2024, MDHHS sent Petitioner a Health Care Coverage Determination Notice, indicating that he was approved for Plan First MA, a limited coverage category, and Medicare Savings Program (MSP), effective March 1, 2024

ongoing (Exhibit A, p. 29). The notice indicated that Petitioner's MA and MSP were active on another case until February 29, 2024 (Exhibit A, p. 29).

5. On May 17, 2024, Petitioner requested a hearing regarding his MA coverage (Exhibit A, p. 4).
6. On [REDACTED] 2024, Petitioner returned a checking account statement from [REDACTED] [REDACTED] which showed an ending balance of [REDACTED] (Exhibit A, p. 34).
7. On June 3, 2024, MDHHS sent Petitioner a Health Care Coverage Determination Notice, indicating that he was approved for MA with a monthly deductible of \$1,232.00 (Exhibit A, p. 39).

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).

Medicaid (MA) 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. MDHHS administers MA pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

In this case, MDHHS initially determined that Petitioner was not eligible for full-coverage MA, because he was over the asset limit for the program. MDHHS approved Petitioner for Plan First MA, a limited coverage category. Subsequently, Petitioner returned verification of a bank statement, which showed that he was under the asset limit for SSI-related MA. MDHHS approved Petitioner for Group 2 Aged, Blind, Disabled (G2S) MA with a monthly deductible of \$1,232.00, effective May 1, 2024 ongoing.

MA includes several sub-programs or categories. BEM 105 (January 2024), p. 1. To receive MA under a Supplemental Security Income (SSI)-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. *Id.* MA eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, MIChild, Flint Water Group and Health Michigan Plan (HMP) is based on Modified Adjusted Gross Income (MAGI) methodology. *Id.* The terms Group 1 and Group 2 relate to financial eligibility factors. *Id.* For Group 1, net income (countable income minus allowable income deductions) must be at or below a certain income limit for eligibility to exist. *Id.* The income limit, which varies by category, is for nonmedical needs such as food and shelter. *Id.* Medical expenses are not used when determining eligibility for MAGI-related and SSI-related Group 1 categories. *Id.* For Group 2, eligibility is possible even when net income exceeds the income limit. *Id.* This is because incurred medical expenses are used when

determining eligibility for Group 2 categories. *Id.* Group 2 categories are considered a limited benefit because a deductible is possible. *Id.* Persons may qualify under more than one MA category. *Id.*, p. 2. Federal law gives them the right to the most beneficial category. *Id.* The most beneficial category is the one that results in eligibility, the least amount of excess income or the lowest cost share. *Id.*

G2S MA is an SSI-related MA category available to a person who is aged (65 or older), blind, or disabled. BEM 166 (April 2017), p. 1. Income eligibility exists when net income does not exceed the Group 2 needs in BEM 544. *Id.* If net income exceeds the Group 2 needs, MA eligibility is still possible with a deductible. *Id.* Plan First MA is a MAGI-related limited coverage MA category, that covers services related to family planning and reproductive health. To be eligible for Plan First, a person must meet all non-financial eligibility factors and their income cannot exceed 195% of the Federal Poverty Level (FPL). BEM 124 (July 2023), p. 1. Persons may qualify under more than one MA category. *Id.*, p. 2. Federal law gives them the right to the most beneficial category. *Id.* The most beneficial category is the one that results in eligibility, the least amount of excess income or the lowest cost share. *Id.*

To evaluate Petitioner's eligibility for MA, MDHHS must determine Petitioner's MA fiscal group size, net income and assets. Petitioner was potentially eligible for SSI-related MA based on his receipt of Retirement, Survivors, and Disability Insurance (RSDI) income. Petitioner had a group-size of one.

Assets are considered in determining eligibility for Supplemental Security Income (SSI)-Related MA programs. BEM 400 (January 2024), p. 1. The SSI-related MA asset limit for a group size of one is \$2,000.00. BEM 400, p. 8. Asset eligibility exists when countable assets are less than or equal to the asset limit at least one day during the month being tested. BEM 400, p. 7. Assets include cash, personal property, and real property. BEM 400, pp. 1-2. Personal property includes currency, savings/checking accounts, and other items. BEM 400, p. 2. An asset is considered countable if it meets the availability test and is not excluded. *Id.*, p. 2. An asset is considered available if someone in the asset group has the legal right to use or dispose of the asset. *Id.*, p. 10. MDHHS is required to assume the asset is available unless there is evidence to the contrary. *Id.* MDHHS is required to verify the value of countable assets at application, redetermination, and when there is a reported change. BEM 400, p. 62. There is no asset test for MAGI-related MA categories, such as Healthy Michigan Plan (HMP) and Plan First MA. BEM 400, p. 3.

Here, MDHHS determined that Petitioner was over the asset limit for SSI-related MA programs because his checking account showed an ending balance of \$ [REDACTED] (Exhibit A, p. 23). No evidence was admitted showing that this cash was not a countable asset. Therefore, MDHHS properly determined that Petitioner was over the asset limit for SSI-related MA programs because he had cash assets exceeding \$2,000.00. MDHHS properly approved Petitioner for Plan First MA, because it determined that he was under the income limit for the program and there is no asset limit for Plan First MA. See BEM 124 (July 2023), pp. 1-2.

Subsequently, Petitioner returned verification of his checking account, which showed an ending balance of \$[REDACTED] (Exhibit A, p. 34). MDHHS processed the change and determined that Petitioner was under the asset-limit for SSI-related MA programs and approved him for G2S MA with a \$1,232.00 monthly deductible, effective May 1, 2024 (Exhibit A, p. 39).

MDHHS based Petitioner's income calculation on the receipt of \$1,627.00 in RSDI income. Petitioner did not dispute this amount. Petitioner was entitled to the \$20.00 disregard, which would bring his net unearned income to \$1,607.00. BEM 541 (January 2023), p. 3. There was no evidence of other SSI-related MA income deductions.

Based on Petitioner's circumstances, he was potentially eligible for Ad-Care MA. The Ad-Care program 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). *Id.* To be income eligible for this program, Petitioner's income would have had to be \$1,275.00 or less for a fiscal group-size of one. RFT 242 (April 2024), p. 1. Petitioner's income exceeded this amount and therefore, he was not eligible for Ad-Care MA.

MDHHS alleged that Petitioner was eligible for G2S MA, which is an SSI-related Group 2 MA category. BEM 166, p. 1. MDHHS considers eligibility under this category only when eligibility does not exist under BEM 155 through 164, 170 or 171. *Id.* Income eligibility exists for G2S MA when net income does not exceed the Group 2 needs in BEM 544. *Id.*, p. 2. If the net income exceeds Group 2 needs, MA eligibility is still possible with a deductible, per BEM 545. *Id.* The deductible is equal to the amount the individual's net income, calculated in accordance with the applicable Group 2 MA policy, minus the applicable Group 2 MA protected income level (PIL). The PIL is a set allowance for non-medical 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 (January 2020), p. 1. The PIL for Berrien County, where Petitioner resided, for a one-person MA group, was \$375.00. RFT 200 (April 2017), p. 2; RFT 240 (December 2013), p. 1.

In determining the monthly deductible, net income is reduced by health insurance premiums paid by the MA group and remedial service allowances for individuals in adult foster care or homes for the aged. BEM 544, pp. 1-3. In this case, no evidence was presented that Petitioner resided in an adult foster care home or home for the aged. Therefore, he was not eligible for any deductions for remedial service allowances. MDHHS testified that Petitioner was approved for MSP coverage, which paid for his Medicare Part B premium. Accordingly, Petitioner's countable income was \$1,607.00. Subtracting the PIL of \$375.00 equals \$1,232.00.

Therefore, MDHHS properly determined that Petitioner was eligible for G2S MA with a monthly deductible of \$1,232.00, effective May 1, 2024 ongoing.

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, MDHHS' decision is **AFFIRMED**.

LJ/pt



Linda Jordan
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

