



GRETCHEN WHITMER
GOVERNOR

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

MARLON BROWN
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: September 10, 2024
MOAHR Docket No.: 24-006247
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 August 8, 2024, from Lansing, Michigan. The Petitioner was represented by [REDACTED] Son in Law. [REDACTED] the Petitioner, was present. [REDACTED] daughter, appeared as a witness for Petitioner. The Department of Health and Human Services (Department) was represented by Jennifer Ives, Supervisor.

During the hearing proceeding, the Department's hearing summary packet was admitted as Exhibit A, pp. 1-10.

ISSUE

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

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 receives monthly a pension payment of \$ [REDACTED] (Exhibit A, pp. 5-6)
2. Petitioner receives a monthly Retirement Survivor Disability Insurance (RSDI) benefit of \$ [REDACTED] (Exhibit A, pp. 7-8)
3. On April [REDACTED] 2024, a Health Care Coverage Determination Notice was issued to Petitioner stating Petitioner was eligible for limited coverage under the Plan First

category and was eligible for the Medicare Savings Program (MSP) under the Specified Low-Income Medicare Beneficiaries (SLMB) category. (Exhibit A, pp. 1-4)

4. The Department also determined that Petitioner is eligible for Medicaid with a monthly deductible of [REDACTED] effective May 1, 2024. (Supervisor Testimony).
5. On June [REDACTED] 2024, Petitioner filed a hearing request contesting the Department's determination. (Hearing Summary Packet, Unnumbered pages)

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.

Plan First MA is a MAGI-related limited coverage Medicaid group available to any United States citizen or individual with an immigration status entitling them to full Medicaid coverage residing in Michigan. The fiscal group's net income cannot exceed 195 percent of the federal poverty level. BEM 124, July 1, 2023, 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, April 1, 2024, 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. Delta 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.

Asset eligibility is required for SSI-related MA categories. Asset eligibility exists when the asset group's countable assets are less than, or equal to, the applicable asset limit at least one day during the month being tested. BEM 400, April 1, 2024, p. 6. For most of the SSI related MA categories for a group of one the asset limit is \$2,000.00. BEM 400, pp. 6-8. A life insurance policy is an asset if it can generate a CSV. BEM 400, p. 45. Funds in an irrevocable prepaid funeral contract are unavailable and thus are not counted. BEM 400, p. 55.

In this case, the Department determined that Petitioner was eligible for the MSP under the SLMB category. (Exhibit A, pp. 1). The Department initially determined that Petitioner exceeded the asset limit for MA due to a life insurance policy with a cash surrender value just over the asset limit. The life insurance policy was converted to an irrevocable trust for burial. (Son In Law Testimony). The Department subsequently determined that Petitioner is eligible for Medicaid with a monthly deductible of \$[REDACTED] effective May 1, 2024. (Supervisor Testimony).

Petitioner receives monthly a pension payment of \$[REDACTED] (Exhibit A, pp. 5-6). Petitioner receives a monthly Retirement Survivor Disability Insurance benefit of \$[REDACTED] (Exhibit A, pp. 7-8). Petitioner's total monthly income is \$[REDACTED]. Accordingly, Petitioner's income exceeds the income limit for full coverage MA under the MA-AD Care category of \$1,275.00 effective April 1, 2024.

Additionally, in accordance with the income limits for the MSP categories as set forth in RFT 242, Petitioner was eligible for the MSP under the SLMB category, which has an income limit of \$1,275.01 to \$1,526.00 effective April 1, 2024. See RFT 242, April 1, 2024, p. 1.

The Department then calculated a monthly deductible for Petitioner. After the \$20.00 disregard and the PIL of \$341.00 are considered, Petitioner has a monthly deductible of \$[REDACTED] effective May 1, 2024. There was no evidence that Petitioner had any of the other allowable deductions (court-ordered child support, blind/impairment related work expenses, allocation to non-SSI related children, an earned income disregard of \$65.00 plus ½ of the remaining earnings, or Guardianship/Conservator expenses).

Petitioner's son in law described Petitioner's medical condition and needs for care in her home. (Son in Law Testimony). However, this Administrative Law Judge has no authority to change or make any exceptions to the applicable regulations and policy, which require a monthly deductible when there is excess income. 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.

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
Jennifer Ives
Delta County DHHS
MDHHS-
UPSChearings@Michigan.gov

SchaeferM

EQADHearings

BSC1HearingDecisions

MOAHR

Via-First Class Mail :

Petitioner

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Authorized Hearing Rep.

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