



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: August 15, 2024
MOAHR Docket No.: 24-006339
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 was represented by his Authorized Hearing Representative (AHR)/Mother [REDACTED]. The Department of Health and Human Services (Department) was represented by Karen Smalls, Assistance Payments Supervisor.

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 is an ongoing recipient of MA benefits. Petitioner was previously approved for MA under a full coverage program. In connection with a redetermination, Petitioner's MA eligibility was reviewed. After processing the redetermination, the Department determined that Petitioner was no longer eligible for MA under a full coverage category. The Department determined that Petitioner was eligible for MA under the Group 2 Persons Under Age 21 (G2U) category subject to a monthly deductible.
2. On February 6, 2024, Petitioner requested a hearing disputing the Department's actions with respect to the MA program and the transfer to a deductible category. Petitioner's hearing request was assigned MOAHR Docket No. 24-001782 and a hearing was held on April 10, 2024, before Administrative Law Judge (ALJ) Amanda

Marler. On April 17, 2024, ALJ Marler issued a Hearing Decision concluding that Petitioner was not eligible for full coverage MA benefits under the Healthy Michigan Plan (HMP), the Disabled Adult Children (DAC) program, or the full coverage Ad-Care program. Because the Department did not sufficiently explain the discrepancies in the amount of Petitioner's deductible under the G2U, or his eligibility for Medicare Savings Program (MSP) benefits, the Department was ordered to redetermine Petitioner's MA and MSP eligibility. (See Hearing Decision for MOAHR Docket No. 24-001782)

3. On or around May 20, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice advising him that effective July 1, 2024, he is not eligible for MSP benefits. (Exhibit A, pp. 8-10)
4. On May 29, 2024, a hearing was requested on Petitioner's behalf disputing the Department's actions regarding the MA program. Petitioner disputed the Department's determination that Petitioner is not eligible for full coverage MA benefits.
5. Petitioner's May 29, 2024, request for hearing was assigned MOAHR Docket No. 24-006339 and is the subject of the present proceeding.
6. On May 31, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice advising that from November 1, 2023, to December 31, 2023, and from April 1, 2024, ongoing, Petitioner is eligible for MSP benefits. (Exhibit A, pp. 11-13)

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. Ad-Care and the Disabled Adult Children (DAC) are SSI-Related Group 1 MA categories. BEM 163 (July 2017), pp. 1-2; BEM 158 (October 2014), p.1. MSP are SSI-related MA categories. 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.

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's AHR requested a hearing on Petitioner's behalf disputing the Department's actions with respect to the MA program. Petitioner's AHR confirmed that the issue with respect to MSP benefits has been resolved, as Petitioner was approved for MSP benefits under the SLMB category. Petitioner's AHR confirmed that the costs of Medicare Premiums are not being withheld from Petitioner's monthly Retirement Survivors Disability Insurance (RSDI) benefits. Thus, there remains no issue left to resolve regarding the MSP. However, Petitioner's AHR asserted that Petitioner is medically fragile and based on his medical needs, Petitioner should be eligible for MA under a full coverage MA program and not a Group 2 deductible program. Petitioner's AHR again disputed the Department's determination that Petitioner is not eligible for MA under the DAC category.

A review of the Hearing Decision and Order issued by ALJ Marler on April 17, 2024, shows that the ALJ concluded that the Department properly determined that Petitioner was not eligible for full coverage MA under the Healthy Michigan Plan (HMP), the Ad-Care program, the DAC category or any other full coverage MA program. There has been no change in Petitioner's income since the prior hearing date and no indication that his eligibility for full coverage MA would be different now based on his current circumstances. Thus, because it was previously concluded that Petitioner is not eligible for full coverage MA, this issue will not be revisited with this Hearing Decision. The undersigned ALJ will review whether the Department properly calculated the amount of Petitioner's monthly deductible.

At the hearing, the Department representative testified that because Petitioner is under age 21 and not eligible for full coverage MA, he was approved for MA under the limited coverage G2U category subject to a monthly deductible of \$911. 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. An adult's fiscal group is the adult and the adult's spouse. The Department determined that Petitioner's fiscal group size was one, as he is over age 18 and unmarried. Therefore, with respect to Petitioner, the monthly PIL for his one person fiscal group living in ██████ County is ██████ 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 B). The Department testified that in calculating income for MA purposes, it considered Petitioner's confirmed monthly Social Security benefits of ██████. Because Petitioner does not have any earned income, he is not eligible for the \$90 deduction for standard work expenses. Petitioner is also not eligible for the \$30 plus 1/3 disregard, as there was no evidence presented that the household received Family Independence Program (FIP) benefits or Low Income Families (LIF) MA in the four months prior to the redetermination. Additionally, there was no evidence that Petitioner was 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. Although Petitioner had a legal guardian, there was no evidence that any court-appointed guardian and/or conservator expenses were verified as paid by Petitioner and submitted to the Department. Thus, the Department properly excluded the \$83 deduction for court-appointed guardianship/conservator expenses. Although Petitioner is approved for the MSP, the Department considered an insurance premium deduction of \$174.70. It is likely that when this deduction is removed, Petitioner's deductible will increase. There were no additional eligible needs-based deductions for remedial services and no evidence of any ongoing medical expenses submitted. See BEM 544; 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 prorate divisor. BEM 536, pp.1-5. In this case, because Petitioner is unmarried and has no dependents, the prorate divisor is 2.9. BEM 536, pp. 3-5.


Upon review, the Department properly calculated Petitioner's net income of [REDACTED]. Because [REDACTED] exceeds the [REDACTED] PIL by \$911, the Department properly calculated Petitioner's MA deductible of \$911.

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 MA eligibility.

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:

DHHS

Yaita Turner

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Interested Parties

BSC4

M Schaefer

EQAD

MOAHR

Via First Class Mail:

Authorized Hearing Rep.

[REDACTED]
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Petitioner

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