



STATE OF MICHIGAN

GRETCHEN WHITMER  
GOVERNOR

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

MARLON I. BROWN, DPA  
DIRECTOR

[REDACTED], MI [REDACTED]

Date Mailed: August 15, 2024  
MOAHR Docket No.: 24-006538  
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 29, 2024, from Detroit, Michigan. Petitioner appeared for the hearing with his Authorized Hearing Representative (AHR) [REDACTED]. The Department of Health and Human Services (Department) was represented by Krista Kulick, 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 was an ongoing recipient of MA benefits under the Healthy Michigan Plan (HMP).
2. In connection with a redetermination, Petitioner's eligibility to receive MA benefits was reviewed. (Exhibit A, pp. 6-8)
3. On or around April 29, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice (Notice) advising him that effective June 1, 2024, he was eligible for Limited Coverage Plan First (PF-MA).

4. Although not reflected on the April 29, 2024, Notice, the Department asserted that Petitioner was no longer eligible for MA under the HMP because he was either enrolled in or eligible for Medicare.
5. The Department assessed Petitioner's eligibility for MA under an SSI-related category and determined the value of his countable assets exceeded the asset limit.
6. On or around May 31, 2024, Petitioner requested a hearing disputing the Department's actions with respect to his MA benefits.
7. After receiving updated bank account statements from Petitioner, the Department reprocessed his MA eligibility and determined that effective June 1, 2024, Petitioner was eligible for MA under the Group 2 Aged Blind Disabled Category (G2S) subject to a monthly deductible of \$1,935.
8. On June 20, 2024, the Department sent Petitioner a Notice advising him that effective June 1, 2024, he was eligible for MA with a monthly deductible of \$1,935. (Exhibit B)

### **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.

In this case, Petitioner disputed the Department's determination that he was eligible for MA under a deductible based program effective June 1, 2024.

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 (October 2023), 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, p. 2; 42 CFR 435.404.

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.

At the hearing, the Department representative testified that in connection with a redetermination, Petitioner's eligibility to receive MA benefits was reviewed. The Department representative testified that Petitioner was ineligible for HMP because he either qualified for or was enrolled in Medicare. As a result, the Department determined Petitioner's MA eligibility under SSI – related categories. However, at the hearing, Petitioner testified that he is not enrolled in Medicare and does not qualify for Medicare, as he began receiving Social Security disability benefits in November 2023 and is 61 years old. The Department did not present any evidence of Petitioner's eligibility for or enrollment in Medicare. Thus, Petitioner's eligibility for HMP benefits will be discussed below.

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 and does not claim any dependents. 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 one. The FPL for a group size of one in 2024 is \$15,060. 133% of the annual FPL in 2024, for a household with one member is \$20,029.80. 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](https://www.michigan.gov/mdhhs/-/media/Project/Websites/mdhhs/Folder3/Folder80/Folder2/Folder180/Folder1/Folder280/SPA_17-0100_Approved.pdf).

The evidence established that Petitioner receives monthly income from Social Security Disability (SSD) benefits in the amount of [REDACTED]. Petitioner's SSD income is countable for purposes of MAGI and HMP eligibility. Because Petitioner's household income is greater than the [REDACTED] income limit identified above, Petitioner is ineligible for full coverage MA benefits under the HMP. The Department properly concluded that Petitioner is potentially eligible for SSI-related MA, which is MA for individuals who are blind, disabled or over age 65. BEM 105, p. 1. 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. BEM 105, p. 1. Ad-Care coverage is a SSI-related Group 1 MA category which must be considered before determining Group 2 MA eligibility. BEM 163 (July 2017), p. 1. Eligibility for Ad-Care is based on the client meeting nonfinancial and financial eligibility criteria. BEM 163, pp. 1-2. The eligibility requirements for Group 2 MA and Group 1 MA Ad-Care are the same, other than income. BEM 166 (April 2017), pp. 1-2.

Income eligibility for the Ad-Care program is dependent on MA fiscal group size and net income which cannot exceed the income limit in RFT 242. BEM 163, p. 2. Petitioner has a MA fiscal group of one. BEM 211 (October 2023), pp. 5-8. Effective April 1, 2024, an MA fiscal group with one member is income-eligible for full-coverage MA under the Ad-Care program if the group's net income is at or below [REDACTED] which is 100 percent of the Federal Poverty Level, plus the \$20 disregard. RFT 242 (April 2023), p. 1. Thus, the income limit for Ad-Care eligibility is [REDACTED].

The Department is to determine countable income according to SSI-related MA policies in BEM 500 and 530 *except* as explained in the countable RSDI section of BEM 163. The Department will also apply the deductions in BEM 540 (for children) or 541 (for adults) to countable income to determine net income. BEM 163, p. 2.

The Department asserted that Petitioner had excess income for the Ad-Care program. The Department representative testified that it considered Petitioner's unearned income which totaled [REDACTED] and was based on his of gross monthly SSD benefits. The Department properly considered the unearned income general exclusion of \$20. BEM

503 (January 2023), pp. 29-30. Therefore, the Department determined that Petitioner had countable income of [REDACTED]

After further review of Department policy and based on the testimony provided at the hearing, because Petitioner's [REDACTED] countable income exceeds the net income limit for the Ad-Care program, the Department acted in accordance with Department policy when it determined that Petitioner was ineligible for full coverage MA benefits under the Ad-Care program without a deductible and determined that he would be eligible for MA under the Group 2 Aged Blind Disabled (G2S) program with a monthly deductible.

Additionally, 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. BEM 545 (July 2022), p. 10. Individuals are eligible for Group 2 MA coverage when net income (countable income minus allowable income deductions) does not exceed the applicable Group 2 MA protected income levels (PIL), which is based on shelter area and fiscal group size. BEM 105, pp. 1-2; BEM 166, pp. 1-2; BEM 544 (January 2020), p. 1; RFT 240 (December 2013), p. 1. The PIL is a set allowance for non-medical need items such as shelter, food and incidental expenses. BEM 544, p. 1. The monthly PIL for an MA group of one living in [REDACTED] County is [REDACTED] per month. RFT 200 (April 2017), pp. 1-2; RFT 240, p. 1. Thus, if Petitioner's net monthly income is in excess of the [REDACTED], he may become eligible for assistance under the deductible program, with the deductible being equal to the amount that his monthly income exceeds [REDACTED] BEM 545, p. 1. To meet a deductible, a MA client must report and verify allowable medical expenses (defined in Exhibit I) that equal or exceed the deductible amount for the calendar month being tested. The group must report expenses by the last day of the third month following the month in which client wants MA coverage. BEM 545, p. 11. The Department is to add periods of MA coverage each time the group meets its deductible. BEM 545, p.11.

The Department determined that effective June 1, 2024, Petitioner was eligible for MA under the G2S category with a monthly deductible of \$1,935. At the hearing, the Department representative presented the SSI-Related Medicaid Income Budget to explain the \$1,935 deductible calculation. (Exhibit B). As referenced above, the Department properly considered unearned income from SSD in the gross total amount of [REDACTED] and properly applied the \$20 unearned income exclusion.

There was no evidence that Petitioner is responsible for monthly insurance premiums and no evidence that any medical expenses were submitted for consideration. Petitioner was informed that should he submit the expenses to the Department in accordance with BEM 545, the Department would review the expenses and determine their applicability to Petitioner's monthly deductible. There was no evidence that Petitioner was entitled to any additional deductions to income such as guardianship/conservator expenses or remedial services.

Upon review, the Department properly considered Petitioner's unearned income and took into consideration the appropriate deductions to income. Based on the evidence presented because Petitioner's countable income of [REDACTED] for MA purposes exceeds the


monthly protected income level of [REDACTED] by \$1,935, the Department properly calculated Petitioner's monthly \$1,935 MA deductible in accordance with Department policy. Therefore, based on the information relied upon by the Department, the Department properly determined that effective June 1, 2024, Petitioner was eligible for MA under the G2S program with a monthly deductible of \$1,935.

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 benefits.

### **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**

Vivian Worden  
Macomb County DHHS Mt. Clemens Dist.  
44777 Gratiot  
Clinton Township, MI 48036  
**MDHHS-Macomb-12-Hearings@michigan.gov**

**Interested Parties**

BSC4  
M Schaefer  
EQAD  
MOAHR

**Via First Class Mail:**

**Authorized Hearing Rep.**

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

**Petitioner**

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