



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



Date Mailed: August 22, 2024
MOAHR Docket No.: 24-007127
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 August 5, 2024, from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Angela Ware, Eligibility Specialist.

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 full coverage Ad-Care category.
2. On or around January 17, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice (Notice) informing her that effective January 1, 2024, she was eligible for MA subject to a monthly deductible of \$452. (Exhibit A, pp.14 – 18)
3. Petitioner was approved for MA under the Group 2 Caretaker Relatives (G2C) category with a monthly deductible.
4. Petitioner's monthly deductible was increased to \$496 effective June 1, 2024.

5. On or around June 10, 2024, Petitioner requested a hearing disputing the Department's actions with respect to her MA eligibility.

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. 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 disputed the Department's determination that she was eligible for MA under a deductible based program. At the hearing, the Department representative testified that Petitioner was previously approved for full coverage MA under the Ad-Care category; however, because there was an increase in her unearned income from RSDI or Social Security Disability, she was no longer eligible for MA under the Ad-Care category and was approved for MA under the G2C based on her status as a parent of a minor child. Because Petitioner is enrolled in Medicare, she is not eligible for full coverage MA under the Healthy Michigan Plan. Petitioner is potentially eligible for SSI – related MA or MA based on her status as a parent.

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 \$1,275, 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 \$1,255.

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 her receipt of gross monthly RSDI/Social Security benefits. Petitioner confirmed that she receives [REDACTED] in RSDI/Social Security. 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 she would be eligible for MA a Group 2 program with a monthly deductible.

Petitioner is eligible for MA under the Group 2 Caretaker Relative (G2C) program. At the hearing, the Department representative testified that as of June 1, 2024, Petitioner's deductible was \$496.

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. Additionally, for the G2C category, an adult's fiscal group is the adult and the adult's spouse. Therefore, with respect to Petitioner, the monthly PIL for her one person fiscal group living in ██████ County is ██████ per month. 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 A, p. 20). The Department testified that in calculating income for MA purposes, it considered Petitioner's monthly RSDI/Social Security of ██████. Because Petitioner does not have any earned income, she 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 month being tested. 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 she had a responsibility for child support expenses. There was also 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. 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 one child under age 18, the prorate divisor is 3.9. BEM 536, pp. 3-5. The Department properly determined that Petitioner's prorated income is ██████ and that her share of her own income is ██████. The Department considered an insurance premium deduction of \$174.90 for Medicare premiums and properly determined that Petitioner had total net income of ██████. 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.


Upon review, the Department properly calculated Petitioner's net income of [REDACTED]. Because [REDACTED] exceeds the [REDACTED] PIL by [REDACTED] the Department properly calculated Petitioner's MA deductible of [REDACTED] effective June 1, 2024.

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:

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Interested Parties

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Via First Class Mail:

Petitioner

[REDACTED]
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