



GRETCHEN WHITMER
GOVERNOR

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

MARLON BROWN
DIRECTOR



Date Mailed: September 19, 2024
MOAHR Docket No.: 24-007612
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 26, 2024, from Detroit, Michigan. Petitioner appeared for the hearing and represented himself. The Department of Health and Human Services (Department) was represented by Anjeleise McKinley, Eligibility Specialist and Sonya Baker, 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. On or around [REDACTED] 2024, Petitioner submitted an application for MA benefits. (Exhibit A, pp. 7-19)
2. Petitioner confirmed that his fiscal group includes himself, that he is age 68, that he is enrolled in Medicare, that he receives a monthly pension of [REDACTED] and that he receives gross monthly Retirement Survivors Disability Insurance (RSDI) or Social Security Disability benefits in the amount of [REDACTED]
3. The Department determined that Petitioner's income exceeded the limit for the full coverage Ad-Care category. The Department determined that Petitioner was eligible for MA under the Group 2 Aged, Blind, Disabled (G2S) subject to a monthly deductible of [REDACTED] and that he was ineligible for Medicare Savings Program (MSP) benefits because his income exceeded the income limit.

4. On or around July 2, 2024, Petitioner requested a hearing disputing the Department's actions with respect to his MA case. (Exhibit A, at pp. 4-5; Exhibit 1)

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 and that he was ineligible for MSP benefits.

At the hearing, the Department testified that Petitioner was ineligible for full coverage MA benefits and ineligible for MSP benefits because his income was in excess of the income limit. The Department representative also testified that Petitioner was ineligible for MSP benefits because the value of his countable assets exceeded the limit. It is noted that the Department's testimony as to Petitioner's asset eligibility for MA and MSP was conflicting and inconsistent. The Department did not identify any asset limit for Petitioner's MA and MSP fiscal group size and did not present any documentation in support of its testimony that Petitioner's assets were in excess of the income limit and thus, did not establish that Petitioner was ineligible for MA and MSP benefits due to excess assets. Thus, Petitioner's income eligibility for MA and MSP benefits will be addressed below.

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.

Because Petitioner is over age 64, and enrolled in Medicare, he is not eligible for full coverage MA under the HMP. There was also no evidence that Petitioner was the parent

or caretaker of any minor children. Thus, the Department properly concluded that Petitioner was 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 \$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. Petitioner confirmed that he receives gross monthly RSDI/Social Security of [REDACTED] and a monthly pension of [REDACTED]. An unearned income general exclusion of \$20 is available to Petitioner. BEM 503 (January 2023), pp. 29-30. Therefore, Petitioner's countable income is [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 ██████ County is ██████ 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 ██████ he may become eligible for assistance under the deductible program, with the deductible being equal to the amount that his monthly income exceeds ██████ 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 July 1, 2024, Petitioner was eligible for MA under the G2S category with a monthly deductible of \$1,923 and the Department representative presented the SSI-Related Medicaid Income Budget to explain the \$1,923 deductible calculation. (Exhibit A, p. 33). However, during the hearing, the Department representative testified that incorrect income amounts were relied upon, as the budget reflects unearned income of ██████ and Petitioner's unearned income from Social Security and his pension is ██████.

Additionally, Petitioner is responsible for monthly Medicare premiums of \$174.90, which are not reflected on the budget as an insurance premium deduction but should be. There was no evidence that Petitioner submitted any ongoing or one time medical expenses for consideration by the Department and there was no evidence that Petitioner was entitled to any additional deductions to income such as guardianship/conservator expenses or remedial services.

Upon review, although the Department properly determine that Petitioner would be eligible for MA under the G2S subject to a monthly deductible, because of the errors identified above with respect to the calculation of Petitioner's unearned income and the failure to include Petitioner's responsibility for monthly Medicare premiums, the Department failed to establish that the \$1,923 deductible was properly calculated.

The Department also determined that Petitioner was not eligible for MSP benefits under any category due to excess income. 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.

Income is the major determiner of category. The monthly income limits for Petitioner's fiscal group size of one are identified in RFT 242 (April 2024). For QMB eligibility, net income cannot exceed \$1,275, which is 100% of the poverty level, plus the \$20 disregard for RSDI income. For SLMB eligibility, net income is between \$1,275.01 and \$1,526, which is over 100% but not over 120% of the poverty level, plus the \$20 disregard for

RSDI income. For ALMB eligibility, net income must be between \$1,526.01 and \$1,714.25, which is over 120% but not over 135% of the poverty level, plus the \$20 disregard for RSDI income. RFT 242, p.1; BEM 165, pp. 1-2, 8-10. Thus, to be eligible for MSP benefits, Petitioner's net income cannot exceed \$1,714.25. The Department is to determine countable income according to the SSI-related MA policies in BEM 500, 501, 502, 503, 504, and 530, except as otherwise explained in BEM 165. RFT 242, pp1-2; BEM 165, pp. 8-10. The Department will also apply the deductions in BEM 540 (for children) and BEM 541 (for adults) to countable income to determine net income. BEM 165, pp. 8-10.

As discussed above, Petitioner confirmed that he receives gross monthly RSDI/Social Security of [REDACTED] and a monthly pension of [REDACTED]. An unearned income general exclusion of \$20 is available to Petitioner. BEM 503 (January 2023), pp. 29-30. Therefore, Petitioner's countable income is [REDACTED]. Because Petitioner's income is in excess of the \$1,714.25 ALMB income limit, he is ineligible for MSP benefits.

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 that Petitioner was ineligible for MSP benefits due to excess income but did not act in accordance with Department policy when it determined that Petitioner's monthly G2S deductible was \$1,923.


DECISION AND ORDER

Accordingly, the Department's decision is **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Redetermine Petitioner's MA eligibility under the most beneficial category and recalculate the deductible for July 1, 2024, ongoing;
2. If eligible, provide MA coverage to Petitioner for any MA benefits that he was entitled to receive but did not, if any, from July 1, 2024, ongoing, and
3. Notify Petitioner in writing of its decision.

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

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Interested Parties

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Via First Class Mail:

Petitioner

[REDACTED]
MI