



GRETCHEN WHITMER
GOVERNOR

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

MARLON BROWN
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: August 30, 2024
MOAHR Docket No.: 24-008194
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 28, 2024. The Petitioner was self-represented and had [REDACTED], a service coordinator from [REDACTED], appear as a witness. The Department of Health and Human Services (Department) was represented by Corlette Brown, Hearings Facilitator, and Ann Person, Eligibility Specialist.

ISSUE

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

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 has been an ongoing MA recipient under the Group 2-Aged, Blind, Disabled (G2S) category since October 2023 when his deductible was \$1,162.00 per month.
2. Petitioner receives a Retirement Survivors Disability Insurance (RSDI) benefit of \$[REDACTED] per month and a pension benefit of \$[REDACTED] per month.
3. Petitioner is not responsible for his Medicare premiums as he is enrolled in the Medicare Savings Program (MSP) and his premiums are paid by the Department.
4. Effective May 2024, in conjunction with reported changes for this Food Assistance Program (FAP) case, Petitioner's G2S deductible increased to \$1,210.00 but no

Health Care Coverage Determination Notice (HCCDN) was issued advising Petitioner of the increased deductible.

5. On June 20, 2024, the Department issued a HCCDN to Petitioner advising him that he was eligible for Plan First (PF) MA benefits.
6. On June 26, 2024, the Department received Petitioner's request for hearing disputing the determination of his MA eligibility.
7. On August 13, 2024, the Department issued a second HCCDN to Petitioner advising him that effective September 1, 2024, he was eligible for MA under the G2S category with a deductible of \$1,210.00.
8. At the hearing, the parties agreed to address the HCCDN issued by the Department on August 13, 2024 in addition to the May and June 2024 eligibility decisions.

APPLICABLE LAWS

Authority for the ALJ to conduct the hearing is provided under MCL 400.9 and 400.37; 42 USC 1396(3); 42 CFR 431.200 to 431.250.

MDHHS policies are contained in the Michigan Department of Health and Human Services Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

The MA program is established by Title XIX of the Social Security Act, 42 USC 1396 *et seq*; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, PL 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, PL 111-152; 42 CFR 430.10 to 42 CFR 430.25; 42 CFR 431.200 to 431.250; and 42 CFR 438.400 to 438.424. MDHHS administers the MA program pursuant to 42 CFR 435, MCL 400.10 and MCL 400.103 to MCL 400.112k of the Social Welfare Act, MCL 400.1 *et seq*.

CONCLUSIONS OF LAW

Upon reviewing Petitioner's eligibility criteria based upon reported changes for his FAP redetermination, MDHHS concluded that Petitioner was eligible for PF and G2S coverage with a deductible of \$1,210. At the time of the increase in Petitioner's deductible effective May 2024, the Department did not issue a HCCDN to Petitioner advising him of the increased deductible. Pursuant to policy, a reduction in medical coverage is considered a negative action. BAM 220 (November 2023), p. 11. Because Petitioner is eligible for less coverage when his deductible is increased, an increase in the deductible is considered a negative action. Negative actions require timely notice, notice which is mailed to the client at least 11 days before the intended negative action takes effect. BAM 220, pp. 4-5. Because the Department failed to issue timely notice to

Petitioner, the Department did not properly impose the increased deductible for May through August 2024. Therefore, Petitioner's previous deductible of \$1,162.00 is effective for May 2024 through August 2024. However, the Department properly notified Petitioner of the increased deductible effective September 2024 after issuing the August 13, 2024 HCCDN to Petitioner.

The determination of MA eligibility based on the June 20, 2024 and August 13, 2024 HCCDNs follows 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 (January 2024), p. 1; BEM 137 (January 2024), p. 1; BEM 124 (July 2023), p. 1. 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.

SSI-RELATED MA (DISABLED, BLIND OR OVER-65)

Because Petitioner is a Medicare recipient **and** disabled and there was no evidence that Petitioner was the parent or caretaker of a minor child, Petitioner was potentially eligible for MA under an SSI-related category. In determining the SSI-related MA category Petitioner is eligible for, MDHHS must determine Petitioner's MA fiscal group size and net income. As an unmarried individual, Petitioner has fiscal group size for SSI-related MA purposes of one. BEM 211 (October 2023), p. 8.

The AD-Care program, an SSI-related MA category, requires that net group income cannot exceed one hundred percent of the federal poverty level plus \$20.00. BEM 163, pp. 1-2. The 2024 federal poverty level (FPL) for a one-person household was \$15,060 annually or \$1,255.00 per month. <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>. The net income limit is also established by subtracting \$20.00 from the income limits seen in RFT 242, \$1,255.00 for a group size of one effective April 1, 2024. RFT 242 (April 2024), p. 1; BEM 163 (July 2017), p. 2.

Countable income is calculated by adding the amounts of income actually received or reasonably anticipated within the month. BEM 530 (April 2020), p. 2. RSDI is considered countable income. BEM 503 (April 2024), pp. 29-30. Petitioner has total gross RSDI income of \$ [REDACTED]. He also has a pension of \$ [REDACTED] per month. His total unearned income is \$ [REDACTED]. Next, \$20.00 is subtracted for the general exclusion and Petitioner's Net Income is \$ [REDACTED]. BEM 541 (January 2024), p. 3. No evidence was presented of any expenses for child support, work-related expenses, nor guardianship or conservator expenses. BEM 541, pp. 1-7. Therefore, Petitioner's Net

Income is greater than the net income limit. Petitioner is not eligible for the full coverage AD-Care program.

Since Petitioner has excess income for eligibility under the AD-Care program, the full coverage SSI-related MA program, an evaluation of Petitioner's eligibility for MA coverage under the Group 2-Aged, Blind, Disabled (G2S) follows. Group 2 provides MA coverage with a deductible. BEM 105, p. 1. The deductible is the amount that the client's net income (less any allowable deductions) exceeds the applicable Group 2 MA protected income level (PIL). PIL is a set allowance for non-medical need items such as shelter, food, and incidental expenses. BEM 544 (January 2020), p. 1. It is based on the client's MA fiscal group size and the county in which the client resides. *Id.* Petitioner resides in ██████ County and has a group size of one; therefore, he is in shelter area IV, and his PIL is \$375.00. RFT 200 (April 2017), p. 3; RFT 240 (December 2013), p. 1. Thus, if Petitioner's monthly net income (less allowable needs deductions) is in excess of \$375.00, Petitioner is eligible for MA assistance under the G2S program with a deductible equal to the amount of income remaining after the appropriate and allowed deductions which is greater than \$375.00.

As discussed above, Petitioner's net income was \$██████. In calculating the deductible, allowances are made for health insurance premiums and remedial services. BEM 544, pp. 1-2. Petitioner is eligible for Medicare Savings Program (MSP) and therefore not responsible for his Medicare Part B premium. No evidence was presented of other insurance premiums or costs for remedial services which produce the maximum reduction of physical and mental limitations and restore an individual to their best possible functioning level. BEM 544, p. 2. Remedial care services include basic self-care and rehabilitation training which teach and reinforce dressing, grooming, eating, bathing, toileting, and following simple instructions. BEM 544, p. 2. Remedial services do not include personal care services as defined in BEM 545. Therefore, the PIL is subtracted to reach a deductible of \$1,210.00 (rounded down to the nearest dollar). The Department properly determined Petitioner's MA G2S eligibility effective August 2024, ongoing.

Finally, the Department determined that Petitioner was eligible for PF. PF-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 (not emergency services only (ESO)) residing in Michigan whose fiscal group's MAGI income does not exceed 195% of the federal poverty level (FPL) and meets the other eligibility criteria. BEM 124 (July 2023), p. 1. There are no age or gender restrictions to PF-MA eligibility. BEM 124, p. 1. PF provides MA coverage for family planning services. See <https://www.michigan.gov/mdhhs/assistance-programs/healthcare/adults/planfirst>.

To determine Petitioner's PF-MA eligibility, a consideration of the fiscal group's size and income is required. BEM 124, pp. 1-2. An individual's group size for MAGI purposes requires consideration of the client's tax filing status. Again, Petitioner has a group size of one. BEM 211, pp. 1-2. 195% of the annual FPL in 2024 (the most current applicable

FPL) for a household with one member is \$29,367.00. See <https://aspe.hhs.gov/poverty-guidelines>. Therefore, to be income eligible for PF-MA, Petitioner's annual income cannot exceed \$29,367.00 or \$2,447.25 per month.

For PF, income must be calculated in accordance with MAGI under federal tax law. MAGI is based on Internal Revenue Service rules and relies on federal tax information. BEM 500 (April 2022), pp. 3-4. Income is verified via electronic federal data sources in compliance with MAGI methodology. MREM, § 1. In determining an individual's eligibility for MAGI-related MA, the Department bases financial eligibility on current monthly household income. Centers for Medicare & Medicaid Services, *State Plan Amendment 17-0100 Approval Notice*, (March 19, 2018), p. 7. MAGI is calculated by reviewing the client's adjusted gross income (AGI) and adding it to any tax-exempt foreign income, tax-exempt Social Security benefits, and tax-exempt interest. HealthCare.gov, *Modified Adjusted Gross Income (MAGI)* <<https://www.healthcare.gov/glossary/modified-adjusted-gross-income-magi/>> (accessed <https://www.healthcare.gov/income-and-household-information/how-to-report/>). AGI is found on IRS Tax Form 1040 at line 11. HealthCare.gov, *Modified Adjusted Gross Income (MAGI)* <<https://www.healthcare.gov/glossary/adjusted-gross-income-agi/>> (accessed August 29, 2024). 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, childcare, or retirement savings. HealthCare.gov, *Modified Adjusted Gross Income (MAGI)* <<https://www.healthcare.gov/income-and-household-information/how-to-report/>> (accessed August 29, 2024).

Petitioner receives his pension and RSDI benefit totaling \$ [REDACTED] per month with no deductions for health coverage, childcare, or retirement savings. Therefore, his gross income is his MAGI which is less than the PF income limit of \$2,447.25 per month. The Department properly determined that Petitioner is eligible for PF MA coverage. Note: Petitioner may opt out of MA-PF coverage if he does not wish to receive coverage for family planning services.

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 did not act in accordance with Department policy when it failed to issue notice to Petitioner regarding his increased MA deductible effective May 2024 through August 2024.

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:

Via-Electronic Mail :

Interested Parties

1. Reduce Petitioner's MA deductible of \$1,210.00 for May 2024 through August 2024 to his previous MA deductible of \$1,162.00

AM/cc



Amanda M. T. Marler
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

MDHHS-Wayne-31-Grandmont-Hearings
BSC4-HearingDecisions
EQADHearings
M. Schaefer
MOAHR

Via-First Class Mail :

Petitioner

[REDACTED]
MI [REDACTED]