



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LANSING

MARLON I. BROWN, DPA  
DIRECTOR

[REDACTED], MI [REDACTED]

Date Mailed: October 4, 2024  
MOAHR Docket No.: 24-008896  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Caralyce M. Lassner**

### **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 hearing was held by telephone on September 5, 2024. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Danielle Moton, Assistance Payments Worker.

### **ISSUE**

Did the Department properly determine Petitioner's and her husband, [REDACTED] [REDACTED] (Spouse), eligibility for Medicaid (MA) coverage effective August 1, 2024?

### **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 and Spouse were ongoing recipients of MA.
2. Petitioner is [REDACTED] years old; Spouse is [REDACTED] years old, they file joint income tax returns, and neither are the caretakers of a minor child. (Exhibit A, pp. 1, 9, 15).
3. On or about June 19, 2024, Petitioner began receiving Retirement, Survivors, and Disability Insurance (RSDI) income of \$1,432 per month. (Exhibit A, pp. 11, 14).
4. Spouse receives RSDI income of \$1,194 per month and pension income of \$53 per month. (Exhibit A, pp. 1, 11, 15).

5. On July 17, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice that, effective August 1, 2024, approved Petitioner for Plan First Family Planning (PFFP) and Spouse for PFFP and MA with a monthly deductible of \$2,087. The HCCDN also denied Spouse for Medicare Savings Program (MSP) effective June 1, 2024. (Exhibit B, pp. 1 – 3).
6. On July 23, 2024, the Department received a request for hearing from Petitioner disputing the type of MA for Petitioner and Spouse. (Exhibit A, pp. 3 – 5).

### **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.

Petitioner requested a hearing to dispute changes in Petitioner's and Spouse's MA coverage. The Department determined Petitioner's and Spouse's MA coverage based on changes in the fiscal group's income. The Department also denied Spouse's MSP effective June 2024 ongoing, which was not disputed by Petitioner.

Under federal law, an individual is entitled to the most beneficial category, which is the one that results in a) eligibility, b) the least amount of excess income, or c) the lowest cost share. BEM 105 (January 2024), p. 2. All MA category options must be considered in order for the Petitioner's right of choice to be meaningful. BEM 105, p. 2. 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, and (iii) to individuals who meet the eligibility criteria for Healthy Michigan Plan (HMP) coverage. 42 CFR 435.911; 42 CFR 435.100 to 435.172; BEM 105, p. 1; BEM 137 (January 2024), p. 1; BEM 124 (July 2023), p. 1. Individuals who do not qualify for one of the foregoing coverages may qualify for PFFP, which is a limited coverage MA category. BEM 124 (July 2023), p. 1.

#### **Petitioner**

The Department approved Petitioner for PFFP effective August 1, 2024. Petitioner is [REDACTED] years old and reported she is not blind, disabled, or the caretaker of a minor child. (Exhibit A, p. 9). There was no evidence Petitioner is pregnant or a Medicare recipient.

Therefore, Petitioner is potentially eligible for under full-coverage HMP or limited coverage PFFP.

HMP and PFFP are both Modified Adjusted Gross Income (MAGI)-related MA policies. Because HMP offers full coverage, it is a more beneficial coverage for Petitioner than PFFP. However, an individual is only eligible for HMP if their MAGI-income does not exceed 133% of the Federal Poverty Level (FPL) applicable to the individual's group size, while an individual is eligible for PFFP if their MAGI-income does not exceed 195% of the FPL applicable to the individual's group size. BEM 137, p. 1; BEM 124, p. 1. For MAGI-related plans, a 5% disregard is available to make those individuals eligible who would otherwise not be eligible. BEM 500 (April 2022), p. 5. The 5% disregard increases the income limit by an amount equal to 5% of the FPL for the group size. BEM 500, p. 5.

An individual's group size for MAGI purposes requires consideration of the client's tax filing status. Here, Petitioner files income taxes jointly with Spouse. (Exhibit A, p. 15). Therefore, for MAGI-related MA purposes, Petitioner has a fiscal group of two. BEM 211 (October 2023), pp. 1 – 2. The monthly income limit for HMP eligibility for a fiscal group of two is \$2,350.60, when the additional 5% disregard is added. The monthly income limit for PFFP eligibility is \$4,343.50, when the additional 5% disregard is added.

To determine Petitioner's MAGI-income, the Department must calculate the countable income of the fiscal group. BEM 500, p. 1. To determine financial eligibility for MAGI-related MA, income must be calculated in accordance with MAGI under federal tax law. 42 CFR 435.603(e); BEM 500, pp. 3 – 4. MAGI is based on Internal Revenue Service rules and relies on federal tax information from current income sources. BEM 500, pp. 3 – 4; see also 42 CFR 435.603(h)(1),(2).

The Department uses current monthly income, and reasonably predictable changes in income, to calculate a client's MAGI-income. (MAGI-Based Income Methodologies (SPA 17-0100), eff. 11/01/2017, app. 03/13/2018)<sup>1</sup>; 42 CFR 435.603(h). MAGI-income is calculated for each income earner in the household by using the "federal taxable wages" reported on earner's paystubs or, if federal taxable wages are not reported on the paystub, by using "gross income" minus amounts deducted by the employer for child care, health coverage, and retirement plans. A client's tax-exempt foreign income, tax-exempt Social Security benefits, and tax-exempt interest, if any, from the client's tax return are added back to the client's adjusted gross income (AGI) to determine MAGI income. See <https://www.healthcare.gov/income-and-household-information/how-to-report/>.

In this case, Petitioner and the Department agree that Petitioner receives RSDI of \$1,432 per month and Spouse receives RSDI in the amount of \$1,194 per month plus

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<sup>1</sup> [MAGI-Based Income Methodologies \(SPA 17-0100\) Approved \(michigan.gov\)](https://www.healthcare.gov/income-and-household-information/how-to-report/), p. 7.

pension income of \$53 per month. (Exhibit A, pp. 1, 11, 15). For purposes of MAGI-related MA, in adult-only households with no tax dependents such as Petitioner's, the gross amount of RSDI and pension income is counted as unearned income. BEM 503 (April 2024), pp. 29 – 32. Therefore, Petitioner's countable income is \$2,679 per month. Because Petitioner's monthly countable income is more than the HMP income limit increased to \$2,350.60 when the 5% disregard is applied but less than the PFFP income limit of \$4,343.50, the Department properly determined Petitioner was not eligible for HMP and was eligible for PFFP.

### **Spouse**

The Department determined Spouse was eligible for MA subject to a monthly deductible of \$2,087 per month, eligible for PFFP, and ineligible for MSP. (Exhibit B, pp. 1 – 3). Because Spouse is over 65 and is not the caretaker of a minor child, he is eligible for MA under only SSI-related categories.

The AD-Care program is a Group 1, full-coverage, SSI-related MA program for aged, disabled, or blind individuals who are income-eligible based on their MA fiscal group size. BEM 163 (July 2017), p. 1. Net income for this program cannot exceed 100% of the Federal Poverty Level (FPL) for the fiscal group size. BEM 163, p. 1. For SSI-related MA purposes, married adults are a fiscal group size of two. BEM 211 (October 2023), p. 8. Petitioner and Spouse are married; therefore, Spouse is a fiscal group of two. Because he is a fiscal group of two, to be income eligible for this program, Spouse's group's monthly income would have to be \$1,703.50 or less. RFT 242 (April 2024). The total gross amount of RSDI and pensions is counted as unearned income but, for purposes of SSI-related MA, is reduced by \$20 to determine the net unearned income. BEM 503 (April 2024), pp. 29 – 31; BEM 541 (January 2024), p. 3; see also BEM 163.

As discussed above, the total of Spouse's fiscal group's unearned income is \$2,679, and when reduced by \$20, equals \$2,659 in net unearned income. Spouse, who does not have earned income, expenses related to non-SSI children, or a court-appointed guardian and/or conservator, is not eligible for any additional deductions. BEM 541, pp. 1, 3. Therefore, Spouse's countable net income is \$2,659 and because that is more than the limit for AD-Care MA, the Department properly determined Petitioner was not eligible for AD-Care MA.

Clients who are ineligible for full-coverage AD-Care MA coverage because of excess income may still be eligible for G2S MA, which provides for MA coverage with a monthly deductible. BEM 105, p. 1. The deductible for G2S MA is equal to a) the amount the individual's net income, b) minus specific expenses set forth in BEM 544, and c) minus the applicable Group 2 MA protected income level (PIL). BEM 166, p. 2; BEM 541, pp. 1, 3 – 4; BEM 544 (January 2020). The PIL is a set allowance for non-medical need items such as shelter, food, and incidental expenses that is based on the county in which the client resides and the client's fiscal MA group size. BEM 544, p. 1. The PIL for Wayne County, where Spouse resides, is \$500 for a two-person fiscal group. RFT 200 (April 2017), p. 2; RFT 240 (December 2013).

In this case, the Department presented a budget for Spouse's G2S eligibility for August 2024 ongoing. (Exhibit A, p. 16). From Spouse's net income of \$2,659, the Department subtracts allowable needs deductions, consisting of health insurance premiums of the MA recipient and remedial services for individuals in adult foster care homes or homes for the aged necessary to reduce physical and mental limitations and restore individuals to the best possible functional level. BEM 544, pp. 1 – 2. Here, Spouse is not eligible for allowable needs deductions for remedial services and the budget properly reflected none. Spouse has Medicare Part B and the HCCDN reflects that he was denied MSP effective June 1, 2024 ongoing. For 2024, Medicare Part B premiums are \$174.70 per month<sup>2</sup>. However, the Department's budget reflected a deduction of only \$71.20 for health insurance premiums. Although the Department testified that pursuant to a State Online Query (SOLQ) it obtained on July 17, 2024, the State of Michigan pays Spouse's Medicare Part B, the only documentary evidence introduced at the hearing established that Spouse was denied MSP effective June 1, 2024 ongoing. (Exhibit B, pp. 1 – 3). Therefore, the Department failed to establish that it properly determined Spouse's monthly G2S deductible.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Spouse's monthly G2S deductible.


### **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 Spouse's eligibility for MA for August 1, 2024 ongoing;
2. If eligible, provide Spouse with the most beneficial MA coverage he was eligible to receive for August 2024 ongoing; and
3. Notify Petitioner of its decision in writing.

CML/nr

  
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**Caralyce M. Lassner**  
Administrative Law Judge

<sup>2</sup> <https://www.cms.gov/newsroom/fact-sheets/2024-medicare-parts-b-premiums-and-deductibles>

**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**  
Tara Roland 82-17  
Wayne-Greenfield/Joy-DHHS  
8655 Greenfield  
Detroit, MI 48228  
**MDHHS-Wayne-17-hearings@michigan.gov**

**Interested Parties**

BSC4  
M. Schaefer  
EQAD  
MOAHR

**Via-First Class Mail :**

**Petitioner**

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