



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: October 3, 2024
MOAHR Docket No.: 24-009686
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 October 2, 2024. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Avery Smith, Assistance Payments Supervisor.

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 was an ongoing MA recipient.
2. In May 2024, the Department received a Food Assistance Program (FAP) Redetermination which affected Petitioner's MA eligibility.
3. Petitioner receives \$ [REDACTED] per month in Retirement Survivors Disability Insurance (RSDI) benefits and his son receives \$ [REDACTED] per month in RSDI benefits.
4. Petitioner is single with one dependent child.
5. Petitioner does not have any other insurance premiums except his Medicare premiums which are being paid by the Department.

6. On June 27, 2024, the Department issued a Health Care Coverage Determination Notice (HCCDN) to Petitioner advising him that effective September 1, 2023, he was eligible for Plan First (PF) MA benefits.
7. On August 20, 2024, the Department received a request for hearing disputing the Department's determination of MA eligibility.
8. On August 27, 2024, the Department issued a HCCDN to Petitioner advising him that he was eligible for Medicare Savings Program (MSP) Specified Low-Income Medicare Beneficiary (SLMB) benefits from January 2024, ongoing; PF from October 2024, ongoing; and MA with a deductible of \$592.00 per month effective August 1, 2024.

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 disputes the Department's determination of his MA eligibility. 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.

Because Petitioner is eligible for Medicare, 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 or by looking to the income limits seen in RFT 242, \$1,275.00 for a group size of one effective April 1, 2024. BEM 163, pp. 1-2; 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]. 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 [REDACTED] County and has a group size of one; therefore, he is in shelter area VI, and his PIL is \$408.00. 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 \$408.00, 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 \$408.00.

As discussed above, Petitioner's net income was \$[REDACTED]. In calculating the deductible, allowances are made for health insurance premiums and remedial services. BEM 544, pp. 1-2. Petitioner is not responsible for his Medicare Part B premium and there was no evidence presented of other insurance premiums. Petitioner has not submitted any expense verifications for remedial services which include services for the reduction of physical and mental limitations and restoration of an individual to their best possible functional level. BEM 544, p. 2. Therefore, the PIL is subtracted to reach a deductible of \$918.00. The Department has not met its burden of proof in establishing that it properly calculated Petitioner's G2S deductible of \$1,201.00 for June 2024, ongoing.

However, because Petitioner is a parent and caregiver of a minor child in the home, he is also eligible for the more beneficial MA category of Group 2 Caregivers (G2C). Income eligibility for G2C exists when net income does not exceed the Group 2 needs

in BEM 544. BEM 135 (October 2015), p. 2. The Department applies the MA policies in BEM 500, 530 and 536 to determine net income. *Id.*

The G2C net income calculation starts with determining Petitioner's pro-rated income. This is calculated by subtracting a \$90 standard work expense from any earned income, a deduction for \$30 plus 1/3 of the remaining earned income if the group member received Family Independence Program (FIP) or Low-Income Family (LIF) MA benefits in one of the last four months, subtracting any dependent care expenses arising from costs while working, and child support. BEM 500 (July 2020); BEM 536 (July 2019), p. 1-3. Petitioner does not have any earned income and there was no evidence presented that Petitioner has received FIP or LIF benefits in the last four months or that he has any dependent care or child support expenses. Next, any unearned income and child support income is added to the new earned income total to achieve the total net income (\$██████████). BEM 536, p. 3. No evidence was presented of receipt of guardianship/conservator expenses; therefore, this step of the calculation is skipped. BEM 536, p. 3. Finally, after consideration of all the above income, expenses, and deductions, the remaining income is divided by the sum of the number of dependents (pursuant to G2C policy) and 2.9. BEM 536, p. 4. Dependent for purposes of G2C includes a person's spouse and children. *Id.* Petitioner has one dependent child in the home and is not married; therefore, his prorated divisor is 3.9 and his prorated share of the group's income is \$██████████.

Finally, the adult fiscal group's net income is 2.9 times Petitioner's prorated share for a total of \$██████████. BEM 536, pp. 6-7. Petitioner's fiscal group net income is \$██████████.

The remainder of the calculations are governed by BEM 544 and 545 and are the same as G2S. BEM 536, p. 7. Deductions are given for insurance premiums, remedial services, and the PIL. BEM 544 (January 2020), pp. 1-2. Therefore, Petitioner is given the deduction of \$408 for the PIL and his deductible is \$592.00 (rounded down). The Department properly determined his G2C eligibility.

Finally, the Department determined that Petitioner is 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. Petitioner is a non-tax filer and has one minor child in the home, so his group size is two. BEM 211, pp. 1-2. 195% of the annual FPL in 2024 (the most current applicable FPL) for a household with one member

is \$39,858.00. See <https://aspe.hhs.gov/poverty-guidelines>. Therefore, to be income eligible for PF-MA, Petitioner's annual income cannot exceed \$39,858 or \$3,321.50 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).

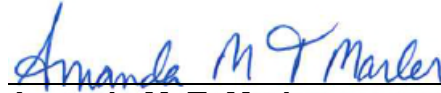
Petitioner receives his RSDI benefit totaling \$ [REDACTED] per month with no deductions for health coverage, childcare, or retirement savings. The MAGI-based income of an individual who is included in the household of their natural parent, and is not expected to be required to file a tax return for the taxable year in which eligibility for Medicaid is being determined, is not included in household income whether or not the individual files a tax return. 42 CFR 435.603(d)(2)(i). The tax filing threshold for a single individual under 65 in 2023 was \$1,250.00 for unearned income. See: <https://www.irs.gov/pub/irs-pdf/p501.pdf>. Therefore, Petitioner's son's income of \$ [REDACTED] is countable and the total household MAGI is \$ [REDACTED]. Petitioner's MAGI is less than the PF income limit. 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 acted in accordance with Department policy when it determined Petitioner's MA eligibility.

DECISION AND ORDER

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

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

Via-Electronic Mail :

Interested Parties

MDHHS-Oakland-6303-Hearings
BSC4-HearingDecisions
EQADHearings
M. Schaefer
MOAHR

Via-First Class Mail :

Petitioner

[REDACTED] MI [REDACTED]