



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

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████████████████████, MI ██████████

Date Mailed: December 12, 2024
MOAHR Docket No.: 24-011670
Agency No.: ██████████
Petitioner: ██████████ ██████████

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 November 14, 2024. Petitioner appeared and was represented by his Authorized Hearing Representative (AHR) and wife, ██████████ ██████████ (Spouse). The Department of Health and Human Services (Department) was represented by Thomas Jones, Assistance Payments Supervisor.

ISSUE

Did the Department properly determine Petitioner's and Spouse's individual Medicaid (MA) eligibility?

Did the Department properly determine Petitioner and Spouse were each ineligible for Medicare Savings Program (MSP)?

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 are both over 65 years of age, married, and live in Oakland County. (Exhibit B, pp. 1 – 2).
2. Petitioner receives Retirement, Survivors, and Disability Insurance (RSDI) income of \$1,211.70 per month. Spouse receives RSDI of \$1,117.70 per month. (Exhibit A, p. 1; Exhibit B, p. 3).

3. From March 1, 2024 through September 1, 2024, Petitioner and Spouse were ongoing recipients of MA and MSP, and each were approved for MA subject to an individual monthly deductible of \$973.
4. On August 29, 2024, the Department received a completed redetermination application from Petitioner for his and Spouse's MA and MSP. Petitioner reported that he pays \$355 per month in health insurance premiums, and Spouse pays \$111.40 per month in health insurance premiums. (Exhibit B, pp. 1 – 9).
5. On October 3, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice (HCCDN) that a) approved Petitioner and Spouse each for MA with a deductible of \$1,309 per month effective November 1, 2024, and b) denied Petitioner and Spouse each for MSP due to excess income effective October 1, 2024. (Exhibit A, pp. 7 – 8).
6. On October 11, 2024, the Department received a request for hearing from Petitioner and Spouse, disputing the Department's determinations regarding Petitioner's and Spouse's MA and MSP. (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 the Department's approval of Petitioner and Spouse for MA subject to a deductible instead of full coverage MA. Petitioner and Spouse were each approved for G2S MA with a monthly deductible of \$1,309, and PFFP, effective November 1, 2024 ongoing, and denied MSP benefits effective October 1, 2024 ongoing.

As a preliminary matter, the Michigan Office of Administrative Hearings and Rules (MOAHR) received multiple documents and correspondence from Petitioner and Spouse following the hearing on November 19, 2024, December 2, 2024, and December 3, 2024. Because the documents were not submitted prior to the hearing nor agreed to by the Department during the hearing, they were not reviewed or considered by the undersigned.

MA

Petitioner and Spouse requested a hearing to dispute the Department's approval of Petitioner and Spouse each for MA subject to a monthly deductible instead of full coverage MA.

Under federal law, an individual is entitled to the most beneficial MA 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. Because Petitioner and Spouse are each over age 65 and not the caretaker of a minor child, each are eligible for MA under only SSI-related categories.

Based on Petitioner's and Spouse's circumstances, they were each potentially eligible for AD-Care MA. The AD-Care program is a Group 1, full-coverage, SSI-related MA program for 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, they are each a fiscal group of two. Because they are each a fiscal group of two, to be income eligible for this program, the group's monthly income would have had to be \$1,703.50 or less. RFT 242 (April 2024). In this case, the parties agree that Petitioner receives RSDI income of \$1,211.70 per month and Spouse receives RSDI income of \$1,117.70. (Exhibit A, p. 1; Exhibit B, p. 3). When determining an individual's MA eligibility, the total gross amount of the group's RSDI 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. 30 – 31; BEM 541 (January 2024), p. 3; see also BEM 163. Petitioner's and Spouse's individual fiscal group's RSDI income, reduced by \$20, equals \$2,310 in net unearned income.

Petitioner and Spouse, who do not have earned income, expenses related to non-SSI children, or a court-appointed guardian and/or conservator, are not eligible for any additional deductions. BEM 541, pp. 1, 3. Therefore, Petitioner's and Spouse's individual countable net income remained \$2,310 for each of them. Because that is more than the limit for AD-Care MA for their two-person fiscal group, the Department properly determined that Petitioner and Spouse were not eligible for AD-Care MA.

Clients who are ineligible for full-coverage MA coverage because of excess income may still be eligible for Group 2 SSI-related (G2S) MA, an SSI-related MA program 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 SSI-related net income, b) minus

allowable needs deductions set forth in BEM 544, 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 Oakland County, where Petitioner and Spouse reside, is \$541 for a two-person fiscal group. RFT 200 (April 2017), p. 3; RFT 240 (December 2013).

In this case, the Department testified that Petitioner and Spouse had ongoing G2S MA, subject to individual deductibles of \$973 per month through September 30, 2024, and effective October 1, 2024, their individual deductibles were \$953 per month. However, the evidence established that the Department issued a HCCDN to Petitioner that approved Petitioner and Spouse each for MA with a deductible of \$1,309 per month effective November 1, 2024, and at the hearing, it presented a budget for the benefit period beginning November 1, 2024, that reflected a monthly deductible of \$959. (Exhibit A, pp. 6 – 8). The Department was unable to clearly identify which deductible amount was accurate.

Additionally, the budget presented included a deduction for insurance premiums of \$809.40. (Exhibit A, p. 6). The evidence established that Petitioner had reported that he pays \$355 per month in health insurance premiums, Spouse pays \$111.40 per month in health insurance premiums. (Exhibit B, p. 3). During the hearing, Spouse testified that they each pay for Medicare Part B premiums. Current Medicare Part B premiums are \$174.70 per month. It was unclear what premiums the Department included in determining the deduction for Petitioner and Spouse's health insurance premiums.

Based on the foregoing, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner's and Spouse's individual monthly deductible amounts for G2S MA.

Although Spouse testified that she and Petitioner have ongoing medical expenses that should have been considered when the Department determined her and Petitioner's monthly deductible amount, there was no evidence that any ongoing medical expenses were reported to the Department at the time of the redetermination application or prior to the request for hearing in this matter. The Department testified that Petitioner provided information regarding ongoing medical expenses to it on November 1, 2024. However, because the information was provided to the Department after the redetermination and after the request for the instant hearing, the undersigned will not address any action or inaction of the Department with regard to those documents.

MSP

Petitioner and Spouse requested a hearing to dispute the Department's denial of each of them for MSP effective October 1, 2024 ongoing. The Department denied Petitioner and Spouse MSP because it concluded neither of them met basic criteria for MSP. (Exhibit A, p. 8).

MSPs are SSI-related MA categories providing assistance with eligible individual's Medicare expense and, effective June 1, 2024, are divided into four types: (i) Qualified Medicare Beneficiaries (QMB), (ii) Specified Low-Income Medicare Beneficiaries (SLMB), (iii) Q1 Additional Low-Income Medicare Beneficiaries (ALMB), and (iv) Non-Categorically Eligible Michigan Beneficiary (NMB). BEM 165 (July 2024), p. 1. Income is the major determiner of category, and the category with the highest net income limit is ALMB, which has a limit of 135% the federal poverty level (FPL) for the fiscal group. BEM 165, pp. 1, 8. Eligibility for NMB exists when a client has income and assets in excess of MSP – ALMB limits, but has full coverage MA with Medicare Part A and B entitlement. BEM 165, p. 1.

As explained previously, Petitioner and Spouse are each a fiscal group of two. BEM 211, p. 8. For 2024, 100% of the FPL for a group of two is \$1,703 per month, and 135% of the FPL is \$2,299.50 per month. RFT 242 (April 2024); 89 Fed Reg 2961. For purposes of MSP, countable income is determined in accordance with SSI-related MA policies. BEM 165, p. 8. And, as explained previously, Petitioner and Spouse each had \$2,310 of net monthly income. BEM 541, pp. 1 – 7. Because \$2,310 is more than the maximum net income limit of \$2,299.50 for MSP – ALMB, the Department properly determined that Petitioner and Spouse were not eligible for MSP.

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 and Spouse were not eligible for MSP, but failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner's and Spouse's individual monthly deductible amounts for G2S MA.

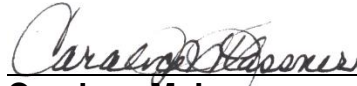
DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to MSP and **REVERSED IN PART** with respect to MA.

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 and Spouse's monthly G2S MA deductible for November 2024 ongoing; and
2. Notify Petitioner of its decision in writing.

CML/nr



Caralyce M. Lassner
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

Tracey Jones
Oakland County Southfield District III
25620 W. 8 Mile Rd
Southfield, MI 48033

MDHHS-Oakland-6303-Hearings@michigan.gov

Interested Parties

BSC4
M. Schaefer
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Via-First Class Mail :

Authorized Hearing Rep.

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Petitioner

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