



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

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

Date Mailed: January 31, 2025
MOAHR Docket No.: 24-013102
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 January 8, 2025, from Lansing, Michigan. [REDACTED], Petitioner, appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Sarah Heff, Assistance Payments Supervisor (APS).

During the hearing proceeding, the Department's hearing summary packet was admitted as Exhibit A, pp. 1-28.

ISSUE

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

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 receiving MA under the Disabled Adult Children (DAC) category. (Exhibit A, pp. 3 and 8-9)
2. On [REDACTED] 2024, Petitioner called the Department and reported that she had gotten married the day before. The Department spoke with Petitioner and her husband and verified that they are married. (Exhibit A, p. 6)
3. The Department redetermined MA eligibility with the change in Petitioner's marital status and determined that Petitioner was eligible under the Group 2 MA category with a monthly deductible. (Exhibit A, pp. 3, 7, and 9)

4. On November 12, 2024, a Health Care Coverage Determination notice was issued to Petitioner stating she would have a monthly deductible of \$2,237.00 for her MA coverage effective December 1, 2024. (Exhibit A, pp. 10-14)
5. On November 21, 2024, Petitioner submitted a hearing request contesting the Department's determination. (Exhibit A, p. 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.

The Medicaid program comprises several sub-programs or categories. To receive MA under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. Medicaid eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, MICHild, Flint Water Group and Healthy Michigan Plan is based on Modified Adjusted Gross Income (MAGI) methodology. In general, the terms Group 1 and Group 2 relate to financial eligibility factors. For Group 1, net income (countable income minus allowable income deductions) must be at or below a certain income limit for eligibility to exist. The income limit, which varies by category, is for nonmedical needs such as food and shelter. Medical expenses are not used when determining eligibility for MAGI-related and SSI-related Group 1 categories. For Group 2, eligibility is possible even when net income exceeds the income limit. This is because incurred medical expenses are used when determining eligibility for Group 2 categories. Group 2 categories are considered a limited benefit as a deductible is possible. BEM 105, January 1, 2024, p. 1.

Disabled Adult Children (MA DAC) is also an SSI-related Group 1 MA category. MA DAC is available to a person receiving disabled adult children's (DAC) (also called Childhood Disability Beneficiaries' or CDBs') RSDI benefits under section 202(d) of the Social Security Act if he or she:

1. Is age 18 or older; and
2. Received Supplemental Security Income (SSI); and
3. Ceased to be eligible for SSI on or after [REDACTED], 1987, because he became entitled to DAC RSDI benefits under section 202(d) of the Act or an increase in such RSDI benefits; and
4. Is currently receiving DAC RSDI benefits under section 202(d) of the Act; and
Note: To receive DAC RSDI a person must have a disability or blindness that began before age 22.
5. Would be eligible for SSI without such RSDI benefits.

BEM 158, October 1, 2014, p. 1.

Income eligibility for MA under the DAC category exists when net income does not exceed the special protected income level in RFT 245. Income eligibility cannot be established with a patient-pay amount or by meeting a deductible. Determine countable income according to MA policies in BEM 500 and 530 except as explained in COUNTABLE RSDI below. Apply the deductions in BEM 541 to countable income to determine net income. BEM 158, October 1, 2014, p. 3. Regarding countable RSDI, the Department is to Exclude all DAC related RSDI benefits for the person whose DAC eligibility is being determined. Count any RSDI benefits that are not related to DAC. For all other persons, countable RSDI is the person's gross RSDI for the month being tested. Gross RSDI means the amount before any deductions such as Medicare. BEM 158, p. 3. In an independent living arrangement, the monthly special protected income level for an individual and spouse is \$[REDACTED] starting [REDACTED] 2024. RFT 245, [REDACTED] 2024, p. 1.

MA AD CARE is an SSI-related group 1 MA category. This category is available to persons who are aged or disabled (AD). Net income cannot exceed 100% of the poverty level. BEM 163, July 1, 2017, p. 1.

Group 2 aged, blind, and disabled (Group 2 MA) is an SSI related MA category that available to a person who is aged (65 or older), blind or disabled. BEM 105, January 1, 2024, p. 5; BEM 166, April 1, 2027, p. 1.

In general, the terms Group 1 and Group 2 relate to financial eligibility factors. For Group 1, net income (countable income minus allowable income deductions) must be at or below a certain income limit for eligibility to exist. The income limit, which varies by category, is for nonmedical needs such as food and shelter. Medical expenses are not used when determining eligibility for MAGI-related and SSI-related Group 1 categories. For Group 2, eligibility is possible even when net income exceeds the income limit. This is because incurred medical expenses are used when determining eligibility for Group 2

categories. Group 2 categories are considered a limited benefit as a deductible is possible. BEM 105, January 1, 2024, p. 1.

BEM 211 addresses group composition for MA:

MAGI-Related

Group composition for MAGI-related categories follows tax filer and tax dependent rules.

The MAGI related groups are:

- Children (U19). The income limit for children birth to age 1 is 195 percent of the federal poverty level (FPL). The income limit for a child aged 1-19 is 160 percent FPL.
- Pregnant Women (PW). The income limit for pregnant women of any age is 195 percent FPL.
- Parents and caretakers (PCR). The income limit for parents and caretakers is 54 percent FPL.
- Healthy Michigan Plan (HMP). The income limit for adults age 19-64 is 133 percent FPL.
- Former foster children (FCTM). There is no income test for individuals' ages 18-26 who were in foster care in Michigan at age 18.
- MOMS. The income limit for pregnant women of any age is 195 percent FPL. • MICHild. The income limit for children birth to age 19 is 212 percent FPL.
- Plan First. The income limit is 195 percent FPL.

BEM 211, October 1, 2023, p. 1.

The household for a tax filer, who is not claimed as a tax dependent, consists of:

- Individual.
- Individual's spouse.
- Tax dependents.

The household for a non-tax filer who is not claimed as a tax dependent, consists of the individual and, if living with the individual:

- Individual's spouse.
- The individual's natural, adopted and stepchildren under the age of 19 or under the age of 21 if a full time student.

- If the individual is under the age of 19 (or under 21 if a full time student), the group consists of individual's natural, adopted and step parents and natural, adoptive and step siblings under the age of 19 (or under 21 if a full time student)

BEM 211, October 1, 2023, p. 2.

The Department counts the gross benefit amount of Social Security Administration issued Retirement Survivors Disability Insurance (RSDI) benefits as unearned income when determining eligibility. BEM 503, April 1, 2024, p. 30. The Department disregards the annual cost of living increase for RSDI for January, February, and March. BEM 503, October 1, 2024, pp. 30-31.

The Department counts the cost of any health insurance premiums and Medicare premiums paid by the medical group as a MA need item. BEM 544, January 1, 2020, p. 1.

The Department utilizes a Protected Income Level (PIL) in determining MA eligibility. The PIL is a set allowance for non-medical need items such as shelter, food and incidental expenses. BEM 544, [REDACTED] 2020, p. 1. [REDACTED] is part of [REDACTED] which has a PIL of \$[REDACTED] for a group size of two. RFT 200, April 1, 2017, p. 3 and RFT 240, December 1, 2013, p. 1.

For SSI related adults, the only deductions allowed to countable income are for court-ordered child support, blind/impairment related work expenses, allocation to non-SSI related children, a \$20.00 disregard, an earned income disregard of \$65.00 plus ½ of the remaining earnings, and Guardianship/Conservator expenses. BEM 541, January 1, 2024, pp. 1-7.

Income eligibility exists for all or part of the month tested when there is no excess income or the medical group's allowable medical expenses equal or exceed the fiscal group's excess income. BEM 545, July 1, 2022, p. 1-3.

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. Each calendar month is a separate deductible period. The fiscal group's monthly excess income is called a deductible amount. Meeting a deductible means reporting and verifying allowable medical expenses that equal or exceed the deductible amount for the calendar month tested. BEM 545, July 1, 2022, p. 10-12.

There are four categories that make up the MSP: Qualified Medicare Beneficiaries (QMB); Specified Low-Income Medicare Beneficiaries (SLMB); Additional Low-Income Medicare Beneficiaries (ALMB); and Non-Categorically Eligible Michigan Beneficiary (NMB). Income is the major determiner of category. For QMB net income cannot exceed 100% of poverty. For SLMB net income is over 100% of poverty, but not over 120% of poverty. For ALMB net income is over 120% of poverty, but not over 135% of

poverty. For NMB, income and assets above allowed ALMB limits but have full coverage Medicaid with Medicare part A/B entitlement. BEM 165, July 1, 2024, p. 1.

RFT 242 addresses the income limits for aged or disabled MA (MA-AD) and the MSP categories. Effective April 1, 2024, for a group size of two the income limit for MA-AD and QMB is \$1,723.50; for SLMB the income limit is \$1,723.51 to \$2,064; and for ALMB the income limit is \$2,604.01 to \$2,319.50. The RFT 242 policy notes that these amounts are the applicable percentage of the federal poverty limit plus the \$20.00 disregard for RSDI income. RFT 242, April 1, 2024, p. 1.

In this case, Petitioner was receiving MA under the Disabled Adult Children (DAC) category. (Exhibit A, pp. 3 and 8-9).

On November 12, 2024, Petitioner called the Department and reported that she had gotten married the day before. The Department spoke with Petitioner and her husband and verified that they are married. (Exhibit A, p. 6).

The Department redetermined MA eligibility with the change in Petitioner's marital status and determined that Petitioner was eligible under the Group 2 MA category with a monthly deductible. (Exhibit A, pp. 3, 7, and 9). Pursuant to the BEM 211 policy, Petitioner's husband is part of her MA group. Accordingly, his income is considered in determining Petitioner's eligibility for MA.

For MA under the DAC category, Petitioner's spouse's RSDI gross benefit amount is counted. He also had income from a donation outside the group. Petitioner's spouse's total income was \$[REDACTED]. (Exhibit A, pp. 22-25). Pursuant to the BEM 158 policy, it appears that the only applicable deduction from the BEM 541 policy would be the \$20.00 disregard. Accordingly, the income exceeded the \$[REDACTED] limit for an individual and spouse in an independent living arrangement. See RFT 245, p. 1. Therefore, Petitioner was no longer eligible for MA under the DAC category.

The Department then Determined Petitioner's eligibility for MA under the AD Care and Group 2 categories, as well as for the MSP.

For the MA group of two, the income of Petitioner and her husband totaled \$[REDACTED] (Exhibit A, pp. 22-25 and 28). Accordingly, the group's gross monthly income exceeded the income limit for full coverage MA under the MA-AD Care category for a group size of two of \$[REDACTED]. See RFT 242, April 1, 2024, p. 1.

The Department then calculated a monthly deductible for Petitioner. It appears that the Department considered the \$20.00 disregard, insurance premiums for Medicare, and the PIL of \$[REDACTED] to determine that Petitioner would have a monthly deductible of \$[REDACTED] (Exhibit A, pp. 10-14). There was no evidence that Petitioner had any of the other allowable deductions (court-ordered child support, blind/impairment related work expenses, allocation to non-SSI related children, an earned income disregard of \$65.00 plus ½ of the remaining earnings, or Guardianship/Conservator expenses).

Additionally, in accordance with the income limits for the MSP categories as set forth in RFT 242, Petitioner was not eligible for the MSP under the QMP, SLMB, or ALMB categories. The category with the highest income limit is the ALMB category, which had an income limit of \$2,604.01 to \$2,319.50 for a group size of two effective April 1, 2024. See RFT 242, April 1, 2024, p. 1. Petitioner also could not be found eligible under the NMB category because she does not have full MA coverage.

Accordingly, on November 12, 2024, a Health Care Coverage Determination notice was issued to Petitioner stating she would have a monthly deductible of \$2,237.00 for her MA coverage effective December 1, 2024. (Exhibit A, pp. 10-14).

Petitioner stated that someone told her that with her being disabled, she is not supposed to be taken off insurance. Petitioner is running up doctor bills. Petitioner and her husband do not share their income, food, or anything. The only thing that changed was a piece of paper. Petitioner and her husband are getting a legal divorce because of this. (Petitioner Testimony).

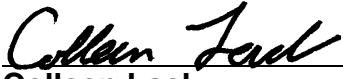
This Administrative Law Judge has no authority to change or make any exceptions to the applicable regulations and policy, which require a spouse to be included in the MA group and require a monthly deductible when there is excess income. Overall, the evidence establishes that the Department properly determined Petitioner's eligibility for MA and the MSP based upon the available information.

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 eligibility for MA and the MSP.

DECISION AND ORDER

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

CL/pt



Colleen Lack
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
Sarah Hess
Dickinson County DHHS
1401 Carpenter Ave.
Iron Mountain, MI 49801
MDHHS-UPSChearings@Michigan.gov

Interested Parties

BSC1
M. Schaefer
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Via-First Class Mail:

Petitioner

MI