



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

[REDACTED]

Date Mailed: May 28, 2020  
MOAHR Docket No.: 20-001282  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Christian Gardocki

### **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 3-way telephone hearing was held on May 21, 2020, from Trenton, Michigan. Petitioner appeared and was unrepresented. [REDACTED] Petitioner's spouse (hereinafter, "Spouse"), testified on behalf of Petitioner. The Michigan Department of Health and Human Services (MDHHS) was represented by Silvester Williams, supervisor, and Brad Reno, hearing facilitator.

### **ISSUES**

The first issue is whether MDHHS properly determined Petitioner's Medicaid eligibility.

The second issue is whether MDHHS properly terminated Petitioner's Medicare Savings Program (MSP) 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. As of November 2019, Petitioner was an ongoing Medicaid recipient under the category of Aged-Disability Care (hereinafter, "AD-Care"). Additionally, Petitioner received ongoing MSP benefits.
2. As of February 2020, Petitioner was disabled, not pregnant, married, and a recipient of Medicare.

3. As of February 2020, Petitioner received monthly Retirement, Survivors and Disability Insurance (RSDI) of \$981 per month. Spouse received ongoing RSDI of \$1,082 per month.
4. On December 18, 2019, as part of a redetermination, MDHHS determined Petitioner to be eligible for Medicaid subject to a \$1,334 monthly deductible beginning February 2020. Additionally, MDHHS ended Petitioner's MSP eligibility beginning February 2020.
5. On February 4, 2020, Petitioner requested a hearing to dispute his Medicaid eligibility and termination of MSP benefits.

### **CONCLUSIONS OF LAW**

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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute a reduction from full Medicaid (i.e. Medicaid without a deductible) coverage. Exhibit A, pp. 5-7. A Health Care Coverage Determination Notice stated that Petitioner was eligible for Medicaid subject to a \$1,334 monthly deductible beginning February 2020. Exhibit A, pp. 16-20.

Medicaid is also known as Medical Assistance (MA). BEM 105 (January 2020), p. 1. The Medicaid program includes several sub-programs or categories. *Id.* To receive Medicaid under a Supplemental Security Income (SSI)-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. *Id.* Medicaid eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, MICHild and Healthy Michigan Plan is based on Modified Adjusted Gross Income (MAGI) methodology. *Id.*

Persons may qualify under more than one Medicaid category. *Id.*, p. 2. Federal law gives them the right to the most beneficial category. *Id.* The most beneficial category is the one that results in eligibility, the least amount of excess income or the lowest cost share. *Id.*

Medicaid categories are also split into categories of Group 1 and Group 2. *Id.*, p. 1. For Group 1, a group's net income must be at or below a certain income level for eligibility. *Id.*

As of the disputed benefit month, Petitioner was disabled, not pregnant, without minor children, and a recipient of Medicare. Petitioner's circumstances render him ineligible for all MAGI-related categories. As a disabled individual, Petitioner is potentially eligible for Medicaid through the SSI-related category of AD-Care.

As of the disputed benefit month, Petitioner was married. Generally, for SSI-related MA, the fiscal group is the applicant and spouse.<sup>1</sup> BEM 211 (July 2019) p. 8. Each group member's countable income is factored in determining Medicaid eligibility.

MDHHS testified that Petitioner was not income-eligible for AD-Care. MDHHS also testified that Petitioner's full-Medicaid eligibility ended after a redetermination of benefits when it was discovered that Spouse had income which had not been budgeted.

AD-Care is a Group 1 category. BEM 163 outlines the procedures for determining AD-Care eligibility.

Generally, MDHHS counts the gross amount of RSDI in determining Medicaid eligibility.<sup>2</sup> BEM 503 (April 2019), p. 28. As of the disputed benefit month, Petitioner's and Spouse's gross RSDI was \$981 and \$1,082, respectively. Exhibit A, pp. 21-27. For purposes of SSI-Related Medicaid categories, Petitioner's group's income is \$2,063.

MDHHS gives AD-Care budget credits for employment income, guardianship and/or conservator expenses; no such credits were applicable. Cost of living adjustments (COLA) are applicable for the benefit months of January through March only. As the present case concerns Petitioner's eligibility for February 2020, MDHHS properly factored Petitioner's group's \$32 increase in RSDI. Subtracting the \$32 COLA from Petitioner's and Spouse's income results in a countable net income of \$2,031.

AD-care income limits are 100% of the Federal Poverty Level + \$20. RFT 242 (April 2018) p. 1. The income limit for a two-person AD-Care group is \$1,430. *Id.* Petitioner's group's countable income exceeds the AD-Care income limit; therefore, Petitioner is not eligible for Medicaid through AD-Care. After determining that Petitioner was ineligible for Group 1 Medicaid, MDHHS proceeded to determine Petitioner's Group 2 eligibility.

For Group 2 categories, Medicaid eligibility is possible even when net income exceeds the income limit for a Group 1 category; this is possible because incurred medical expenses are used when determining eligibility. BEM 105 (January 2020), *Id.*, p. 1. Group 2 categories are considered a limited benefit because a deductible is possible. *Id.*

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<sup>1</sup> Exceptions to the generality are when persons are seeking Medicaid under the category of Freedom-To-Work or for long-term care/hospitalizations.

<sup>2</sup> Exceptions to counting gross RSDI include the following: certain former SSI recipients (e.g. disabled-adult children, 503 individuals, and early widowers), retroactive RSDI benefits, Medicare premium refunds, fee deductions made by qualified organizations acting as payee, and "returned benefits" (see BAM 500). No exceptions were applicable to the present case.

Clients with a deductible may receive Medicaid if sufficient allowable medical expenses are incurred. BEM 545 (July 2019) p. 11. Each calendar month is a separate deductible period. *Id.* The fiscal group's monthly excess income is called the deductible amount. *Id.* Meeting a deductible means reporting and verifying allowable medical expenses that equal or exceed the deductible amount for the calendar month. *Id.*

The corresponding Group 2 category for AD-Care is G2S. SSI-related Group 2 budgets are outlined in BEM 530 and BEM 541.

A G2S budget begins with determining countable income. For G2S, Petitioner's and Spouse's RSDI of \$2,063 is counted. The G2S budget allows a \$20 disregard for unearned income and various earned income disregards.

The G2S budget factors ongoing medical expenses (which are applied toward a deductible), insurance premiums, COLA (for January-March only), and remedial services. MDHHS credited Petitioner for a \$135.50 Medicare premium. MDHHS also factored the group's \$32 COLA.

A client's deductible is calculated by subtracting the protected income level (PIL) from the MA net income. A PIL is a standard allowance for non-medical need items such as shelter, food and incidental expenses. The PIL for Petitioner's shelter area and group size is \$541 (see RFT 240 (December 2013), p. 1).

Subtracting the PIL, insurance premium, COLA, and \$20 disregard from Petitioner's countable income results in a monthly deductible of \$1,334; the same deductible was calculated by MDHHS (see Exhibit A, p. 33). Thus, it is found that MDHHS properly determined Petitioner's Medicaid eligibility.

Petitioner also requested a hearing to dispute a reduction in his RSDI payments. A Health Care Coverage Determination Notice stated that Petitioner was ineligible for MSP after January 2020. Exhibit A, pp. 16-20.

Medicare cost-sharing (also known as MSP) is a program in which Medicaid pays for Medicare Part B premiums or Part A and B premiums, coinsurances and deductibles for certain Medicaid recipients. BAM 810 (January 2018) p. 1. MSP is an SSI-related Medicaid category. BEM 165 (January 2018) p. 1. One of three different types of subprogram are available under MSP. Qualified Medicare Beneficiaries (QMB) coverage pays for a client's Medicare premiums, coinsurances, and deductibles. BEM 165 (January 2018), p. 2. Specified Low Income Beneficiaries (SLMB) coverage pays for a client's Medicare Part B premium. *Id.* Additional Low Income Beneficiaries (ALMB) coverage pays for a client's Medicare Part B premium if DHHS funding is available. *Id.* The client's income determines the MSP subprogram issued (see RFT 242).

For MSP income eligibility, MDHHS is to determine countable income according to the SSI-related MA policies in BEM 165, 500, 501, 502, 503, 504 and 530. BEM 165

(October 2016) p. 8. MDHHS is to apply the deductions in BEM 540 (for children) and 541 (for adults) to determine a client's net income for MSP. *Id.*

As MSP is also an SSI-related category, Petitioner's group size and countable income is the same as it is for SSI-related Medicaid. Thus, Petitioner's group size is two and the group's countable income is \$2,063.


For MSP, MDHHS gives a \$20 disregard for unearned income, employment income disregards, guardianship/conservatorship expense credits, and COLA disregards during the benefit months from January through March. The applicable disregards and/or credits are the standard \$20 disregard for unearned income and \$32 COLA. Subtracting the disregard/credits from Petitioner's group's countable income results in a net income of \$2,011; MDHHS calculated the same net income. Exhibit A, p. 36.

Income eligibility exists for MSP when net income is within the limits in RFT 242 or 247. *Id.*, p. 8. The highest income limit for any MSP category for a group size of 2 is \$1,903. RFT 242 (April 2019), p. 2. Petitioner's group's countable income exceeds the highest income limit for MSP eligibility. Thus, MDHHS properly terminated Petitioner's MSP benefits due to excess income.

### **DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly determined Petitioner to be eligible, effective February 2020, for Medicaid subject to a \$1,334 per month deductible. Additionally, MDHHS properly terminated Petitioner's MSP eligibility beginning February 2020. The actions taken by MDHHS are **AFFIRMED**.

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**Christian Gardocki**  
Administrative Law Judge  
for Robert Gordon, Director  
Department of Health and Human Services

**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 Email:**

MDHHS-Genesee-Union St.-Hearings  
D. Smith  
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BSC2- Hearing Decisions  
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**Petitioner – Via First-Class Mail:**

