



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: March 17, 2021
MOAHR Docket No.: 20-008617
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 hearing was held via telephone conference on March 11, 2021. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Ronetta Dalton, supervisor, and Karen Schneider, specialist

ISSUES

The first issue is whether MDHHS properly denied Petitioner's application for Medicare Savings Program (MSP).

The second issue is whether MDHHS properly determined Petitioner's Medicaid 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. On [REDACTED] 2020, MDHHS received Petitioner's application requesting Medical Assistance (MA) benefits.
2. As of December 2020, Petitioner was an ongoing recipient of Medicaid subject to an unspecified deductible amount.
3. As of December 2020, Petitioner was unmarried, not pregnant, a recipient of Medicare, and not a caretaker to minor children.
4. As of December 2020, Petitioner received monthly gross Retirement, Survivors, Disability Income (RSDI) of at least \$1,601.

5. As of December 2020, Petitioner had no guardianship or conservator expenses.
6. On [REDACTED], 2020, Petitioner requested a hearing concerning “extra help” for payment of medical bills.
7. On January 19, 2021, MDHHS denied Petitioner’s application concerning MSP and continued Petitioner’s Medicaid eligibility subject to a monthly deductible.

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 for “extra help” while referencing medical expenses she recently incurred. Exhibit A, pp. 6-8. Petitioner testified that only until recently was she billed for prescriptions and other medical costs. Petitioner further testified that she was told the change was due to some recent action taken by the State of Michigan.¹ Petitioner getting billed is particularly surprising given that she testified that she has Medicare and private health insurance through [REDACTED]. Given Petitioner’s statements a dispute over Medicaid and MSP eligibility will be inferred from her hearing request.

The analysis will begin with Petitioner’s Medicaid eligibility. MDHHS stated that Petitioner has been eligible for Medicaid subject to an unspecified monthly deductible. Medicaid eligibility subject to a deductible implies that the client has excess income for full Medicaid.²

Medicaid is part of Medical Assistance (MA). BEM 105 (April 2017), p. 1. The Medicaid program includes several sub-programs or categories. *Id.* To receive MA 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.*

¹ MDHHS testified that no known recent action was taken to Petitioner’s Medicaid eligibility. MDHHS testified that Petitioner was last eligible for Medicaid in February 2018 and that she was never eligible for MSP. Petitioner would be wise to obtain specific information as to what change was made by MDHHS.

² “Full Medicaid” means Medicaid with no deductible. It was not disputed that Petitioner was eligible for Medicaid subject to a monthly deductible.

Persons may qualify under more than one MA 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.*

As of Petitioner's hearing request date, Petitioner was disabled, not pregnant, a Medicare recipient, and not a caretaker to minor children. Given Petitioner's circumstances, she is ineligible for all MAGI-related categories. As a disabled and/or aged individual, Petitioner is potentially eligible for Medicaid under the SSI-related category of Aged/Disability-Care (AD-Care).

MA 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.* For Group 2 categories (i.e., deductible categories), a client received Medicaid only when medical expenses are submitted meeting or exceeding deductible amounts. AD-Care is a Group 1 category. BEM 163 outlines the procedures for determining income eligibility under AD-Care.

At all relevant times, Petitioner was without minor children and did not reside with a spouse. For purposes of AD-Care, Petitioner's group size is one. BEM 211 (July 2019) p. 8.

It was not disputed that Petitioner only received income from RSDI. Generally, MDHHS counts the gross amount of RSDI in determining Medicaid eligibility.³ BEM 503 (April 2019), p. 28. MDHHS testified that Petitioner received gross monthly income of \$1,792.50 from RSDI. Petitioner testified that her monthly income in 2020 after deductions was only \$1,601. For purposes of this decision, Petitioner's gross RSDI will be accepted to be \$1,601.⁴

MDHHS gives AD-Care budget credits for employment income, guardianship expenses, and/or conservator expenses. Cost of living adjustments (COLA) are applicable for the benefit months of January through March only. BEM 503 (January 2019), p. 29. Petitioner did not allege any relevant expenses or credits.

For SSI-Related MA categories, MDHHS is to apply the deductions allowed in BEM 541 for adults. BEM 163 (July 2017) p. 2. A \$20 disregard is given for unearned income. BEM 541 (July 2019) p. 3. No other credits were applicable. Subtracting the \$20 disregard results in a net income of \$1,084.

Net income for AD-Care cannot exceed 100% of the federal poverty level. BEM 163 (July 2017) p. 2. The annual federal poverty level for a 1-person group in Michigan is

³ 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.

⁴ MDHHS credibly testified that \$1,770 was factored for Petitioner's gross RSDI. Without any consideration of the proper amount of RSDI to budget, Petitioner's testimony will be accepted as proper.

\$12,760⁵. Dividing the annual amount by 12 results in a monthly income limit of \$1,064 (rounding up to nearest dollar). The same income limit is found in policy.⁶ RFT 242 (April 2020), p. 1. Petitioner's countable income substantially exceeds the AD-Care income limit. Thus, MDHHS properly determined Petitioner to be ineligible for Medicaid under AD-Care.⁷

Petitioner also disputed MSP eligibility. A Benefit Notice dated January 19, 2021, stated that Petitioner was denied MSP due to excess income. Exhibit A, pp. 3-5.

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 MDHHS 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 both are SSI-related MA categories, Petitioner's group size of 1 and countable income of \$1,601 may be taken from the AD-Care analysis and applied to the analysis of MSP eligibility.

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 only applicable disregard and/or credit is the standard \$20 disregard for unearned income. Applying the disregard to Petitioner's RSDI results in a net income is \$1,581.

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 1 is \$1,456. RFT 242 (April 2020) p. 1. Petitioner's countable net income exceeds the highest income limit for MSP eligibility. Thus, MDHHS properly denied Petitioner's application for MSP benefits due to excess income.

⁵ <https://aspe.hhs.gov/2020-poverty-guidelines>.

⁶ MDHHS policy lists an income limit of \$1,084 while noting that the \$20 disregard is already factored into the income limit.

⁷ The analysis will not examine Petitioner's ongoing eligibility for a monthly deductible because the continuity is not consistent with a disruption in medical expenses getting paid.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly denied Petitioner's application dated [REDACTED], 2020, requesting MSP. It is further found that MDHHS properly determined Petitioner to be eligible for a monthly deductible. The actions taken by MDHHS are **AFFIRMED**.

CG/tm



Christian Gardocki

Administrative Law Judge
for Elizabeth Hertel, 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-Wayne-18-Hearings
C. George
EQADHearings
BSC4
MOAHR

**Petitioner –
Via First-Class Mail:**

██████████
██████████
████████████████████