



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

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Date Mailed: June 23, 2021  
MOAHR Docket No.: 21-002452  
Agency No.: ██████████  
Petitioner: ██████████

**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 line on June 17, 2021. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Samar Hamab, supervisor, and Banine Flowers, specialist.

### **ISSUE**

The 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. At all relevant times, Petitioner was disabled, not cohabitating with a spouse, a recipient of Medicare, not pregnant, and not a caretaker to minor children.
2. As of December 2020, Petitioner received gross monthly Retirement, Survivors and Disability Insurance (RSDI) of \$██████████.
3. As of May 2021, Petitioner was not responsible for insurance premiums or guardianship costs.
4. On an unspecified date, MDHHS determined Petitioner to be eligible for Medicaid subject to a \$799 monthly deductible.

5. On May 4, 2021, Petitioner requested a hearing to dispute Medicaid eligibility.

### **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).

On May 4, 2021, Petitioner requested a hearing to dispute ongoing Medicaid eligibility.<sup>1</sup> Exhibit A, pp. 3-4. MDHHS credibly testified that Petitioner was eligible for Medicaid subject to a \$799 monthly deductible as of May 2021.<sup>2</sup>

Medicaid is also known as 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.*

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).

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<sup>1</sup> Petitioner's hearing request specifically requested Supplemental Security Income (SSI). SSI is a cash benefit through the Social Security Administration. Petitioner also referenced subsidized housing which is also not a benefit obtainable through MDHHS. During the hearing, Petitioner clarified that she intended to dispute ongoing Medicaid eligibility.

<sup>2</sup> MDHHS presented a Health Care Coverage Determination Notice dated June 14, 2021, stating that Petitioner was eligible for "full" Medicaid beginning June 2021. Exhibit A, pp. 6-8. MDHHS testified that the notice was sent after Petitioner met her deductible for June 2021 and that she is eligible for ongoing Medicaid benefits subject to a deductible.

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.* 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.

As of Petitioner's hearing request date, Petitioner received gross monthly income of \$[REDACTED] from RSDI. Generally, MDHHS counts the gross amount of RSDI in determining Medicaid eligibility.<sup>3</sup> BEM 503 (April 2019), p. 28. MDHHS based Petitioner's income eligibility for Medicaid on her 2020 RSDI income of \$[REDACTED]. As MDHHS factored a lower and more favorable income for Petitioner, it will be accepted as correct. For purposes of MA under an SSI-Related Medicaid category, Petitioner's gross income is \$[REDACTED].

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. Subtracting the \$20 disregard results in a net income of \$[REDACTED].

Net income for AD-Care cannot exceed 100% of the federal poverty level. BEM 163 (July 2017) p. 2. The 2021 annual federal poverty level for a 1-person group in Michigan is \$12,880.<sup>4</sup> Dividing the annual amount by 12 results in a monthly income limit of \$[REDACTED] (rounding up to nearest dollar). The same income limit is found in MDHHS policy.<sup>5</sup> RFT 242 (April 2020), p. 1. Petitioner's countable income exceeds the AD-Care income limit. Thus, MDHHS properly determined Petitioner to be ineligible for Medicaid under AD-Care.

Though Petitioner is ineligible for Medicaid under a Group 1 category, Petitioner may still receive Medicaid under a Group 2 category. For Group 2 categories, 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. *Id.* Group 2 categories are considered a limited benefit because a deductible is possible. *Id.* For aged/disabled persons, G2S is the applicable Group 2 Medicaid category.

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<sup>3</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 known exceptions were applicable to the present case.

<sup>4</sup> <https://aspe.hhs.gov/2021-poverty-guidelines>

<sup>5</sup> MDHHS policy notes that the \$20 disregard is already factored into the income limit of \$1,094.

Clients with a deductible may receive Medicaid if sufficient allowable medical expenses are incurred.<sup>6</sup> BEM 545 (April 2018), 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.*

Petitioner's gross countable income of \$██████ is unchanged for G2S. The G2S budget allows a \$20 disregard for unearned income and various employment income disregards. The G2S budget also factors ongoing medical expenses (which are applied toward a deductible), insurance premiums, and remedial services. Petitioner did not allege any relevant expenses.

A client's deductible is calculated by subtracting the protected income level (PIL) from the client's 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 \$375. RFT 240 (December 2013), p. 1.

Subtracting the PIL and \$20 unearned income disregard from Petitioner's countable income results in a monthly deductible of \$799; the same deductible was calculated by MDHHS. Thus, MDHHS properly determined Petitioner's Medicaid eligibility.


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<sup>6</sup> Clients should be fully aware that medical expenses need only be incurred, and not necessarily paid, to meet a deductible/spenddown.

**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 for Medicaid subject to a \$799 monthly deductible as of May 2021. The actions taken by MDHHS are **AFFIRMED**.

CG/jm

  
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**Christian Gardocki**  
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 Email:**

MDHHS-Wayne-17-Hearings  
BSC4-HearingDecisions  
C. George  
EQADhearings  
MOAHR

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

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