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GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

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██████████, MI ██████████

Date Mailed: March 29, 2022  
MOAHR Docket No.: 22-000231  
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 March 24, 2022. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Priya Johnson, supervisor

**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 not disabled, not cohabitating with a spouse, not a recipient of Medicare, not pregnant, and not a caretaker to minor children.
2. As of December 2021, Petitioner was an ongoing Medicaid recipient.
3. As of December 2021, Petitioner received ongoing gross monthly Retirement, Survivors and Disability Insurance (RSDI) of \$██████████ based as a survivor.
4. Beginning January 2022, Petitioner's RSDI increased to \$██████████ per month.
5. On ██████████, 2022, MDHHS determined Petitioner to be eligible for Medicaid subject to a \$1,689 monthly deductible beginning ██████████ 2022.

6. On January 24, 2022, Petitioner requested a hearing to dispute Medicaid eligibility.

### **CONCLUSIONS OF LAW**

The 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. MDHHS administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MA 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 change in ongoing Medicaid eligibility. Exhibit A, pp. 3-4. A Health Care Coverage Determination Notice dated [REDACTED], 2022, stated that Petitioner was eligible for Medicaid subject to a \$1,689 monthly deductible beginning [REDACTED] 2022. Exhibit A, pp. 5-8.

Medicaid is also known as MA BEM 105 (April 2017), p. 1. The MA 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.*

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.*

As of the disputed benefit month, Petitioner was not disabled, not pregnant, not a Medicare recipient, not a caretaker to minor children, and between the age of 19-64 years. Given Petitioner's circumstances, the only Group 1 category for which MA benefits may be issued is HMP.<sup>1</sup>

MAGI-based income means income calculated using the same financial methodologies used to determine modified adjusted gross income as defined in section 36B(d)(2)(B) of

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<sup>1</sup> See BEM 137 for HMP's eligibility requirements.

the Code.<sup>2</sup> 42 CFR 435.603(e). For individuals who have been determined financially-eligible for Medicaid using the MAGI-based methods set forth in this section, a State may elect in its State plan to base financial eligibility either on current monthly household income and family size or income based on projected annual household income and family size for the remainder of the current calendar year. 42 CFR 435.603(h). MDHHS has chosen to determine HMP eligibility based on current monthly income.<sup>3</sup>

MAGI can be defined as a household's adjusted gross income with any tax-exempt interest income and certain deductions added back.<sup>4</sup> Common deductions and disregards which should be factored in determining a person's adjusted gross income include alimony payments, unreimbursed business expenses, Health Savings Account (e.g., 401k) payments, and student loan interest.<sup>5</sup>

In determining Petitioner's HMP eligibility, MDHHS factored a group of one person. It was not disputed that Petitioner was the only household member and had no children. Presumably, Petitioner was a tax filer with no dependents. Under the circumstances, Petitioner's benefit group size is one (see BEM 211).

An award letter from the Social Security Administration stated that Petitioner was eligible for \$██████ in monthly income beginning ████████ 2022. Exhibit A, pp. 10-11. No other income was factored in the determination.

HMP income limits are based on 133% of the federal poverty level (FPL). RFT 246 (April 2014), p. 1. Also, a 5% disregard is applied to the income limit when the disregard is the difference between eligibility and non-eligibility. BEM 500 (July 2017) p. 5. Thus, HMP income limits are functionally 138% of the FPL. The 2022 FPL is \$13,590 for a 1-person group residing in the contiguous 48 states.<sup>6</sup> For Respondent to be eligible for HMP in 2022, countable income would have to fall at or below \$18,754.20 (\$1,562.85 per month). Respondent's countable income exceeded the HMP income limit. There was no evidence of applicable deductions.

Client ineligible for MA benefits under HMP or any other Group 1 category may be eligible to receive MA 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 MA benefit because a deductible is possible. *Id.*

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<sup>2</sup> Income exceptions are made for lump-sums which are counted as income only in the month received; scholarships, awards, or fellowship grants used for education purposes and not for living expenses; and various exceptions for American Indians and Alaska natives. No known exceptions are applicable to the present case.

<sup>3</sup> [https://www.michigan.gov/documents/mdhhs/SPA\\_17-0100\\_Approved\\_638230\\_7.pdf](https://www.michigan.gov/documents/mdhhs/SPA_17-0100_Approved_638230_7.pdf)

<sup>4</sup> <https://www.investopedia.com/terms/a/agi.asp>

<sup>5</sup> *Id.*

<sup>6</sup> <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>

Clients with a deductible may receive Medicaid if sufficient allowable medical expenses are incurred.<sup>7</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.*

As a non-disabled, non-pregnant, non-caretaker to minor children under the age of 65 years, Petitioner appears ineligible for any Group 2 categories. Nevertheless, MDHHS deemed Petitioner potentially eligible for MA under the category of Group 2-Spenddown (G2S) as an aged and/or disabled person.<sup>8</sup> For purposes of the analysis, it will be accepted that Petitioner is potentially eligible for a deductible under G2S.<sup>9</sup>

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. Cost of living adjustment (COLA) exclusions are applicable only for the budget months of January through March. The only applicable credits were the standard \$20 disregard and a \$125 COLA exclusion.

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 \$408. RFT 240 (December 2013), p. 1.

Subtracting the PIL, COLA exclusion, and \$20 disregard from Petitioner's countable income results in a monthly deductible of \$1,689: the same deductible calculated by MDHHS. Exhibit A, p. 9. Thus, MDHHS properly determined Petitioner's MA eligibility.

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<sup>7</sup> Clients should be aware that medical expenses need only be incurred, and not necessarily paid, to meet a deductible/spenddown.

<sup>8</sup> Petitioner testified that her RSDI eligibility is based on survivorship. MDHHS likely erroneously assumed that Petitioner's receipt of RSDI benefits was due to disability. The error also likely caused MDHHS to evaluate Petitioner's Group1 MA eligibility based on aged/disabled care rather than HMP.

<sup>9</sup> G2S eligibility requirements may be found in BEM 166.

**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 \$1,689 monthly deductible beginning February 2022. The actions taken by MDHHS are **AFFIRMED**.

CG/mp



**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

**Email Recipients:**

MDHHS-Oakland-6303-Hearings  
EQADhearings  
C. George  
MOAHR  
BSC4

**First-Class Mail Recipient:**

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