



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

Date Mailed: November 10, 2022  
MOAHR Docket No.: 22-004580  
Agency No.: [REDACTED]  
Petitioner: [REDACTED] [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 line on November 3, 2022. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Angela Henson, specialist

### **ISSUE**

The issue is whether MDHHS properly determined Petitioner to be eligible for Medicaid subject to a deductible.

### **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 October 2022, Petitioner was an unmarried individual who was aged and/or disabled, a recipient of Medicare, not pregnant, and not a caretaker to a minor child.
2. As of October 2022, Petitioner received gross monthly Retirement, Survivors and Disability Insurance (RSDI) of \$[REDACTED].
3. As of October 2022, Petitioner had no insurance premiums, guardianship/conservatorship expenses, or remedial services expenses.
4. As of October 2022, Petitioner was eligible for Medicaid subject to a monthly deductible of \$826.

5. On October 5, 2022, Petitioner requested a hearing to dispute her ongoing eligibility of Medicaid subject to a monthly deductible of \$826. Petitioner additionally disputed Food Assistance Program (FAP) eligibility.
6. On November 3, 2022, Petitioner withdrew her dispute over FAP eligibility.

### **CONCLUSIONS OF LAW**

The FAP (formerly known as the Food Stamp program) is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. MDHHS administers the FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-119b, and Mich Admin Code, R 400.3001-.3011. FAP policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing, in part, to dispute an unspecified action by MDHHS concerning FAP eligibility. Exhibit A, pp. 3-5. During the hearing, Petitioner verbally withdrew her dispute concerning FAP eligibility. MDHHS had no objections to Petitioner's withdrawal. Concerning FAP, Petitioner's hearing request will be dismissed.

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 BAM, BEM, and RFT.

Petitioner also requested a hearing to dispute ongoing Medicaid eligibility. Exhibit A, pp. 3-5. Petitioner specifically complained that she needed a housekeeper and was not eligible for one through Medicaid while a recipient of a Medicaid deductible.<sup>1</sup> MDHHS responded that Petitioner received ongoing Medicaid subject to a deductible since 2014.<sup>2</sup> After updating Petitioner's case for November 2022, MDHHS determined that Petitioner was eligible for Medicaid subject to a monthly deductible of \$826.

MA is also known as Medicaid. BEM 105 (January 2021) 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.*

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<sup>1</sup> If Petitioner requires housekeeping services to maintain independent living, she may qualify for the MA Waiver program (see BEM 106). The program is administered by the Medical Services Administration. Petitioner can learn more about the program by calling 313-446-4444.

<sup>2</sup> MDHHS's testimony was consistent with a notice dated [REDACTED] 2014, stating that Petitioner was eligible for Medicaid subject to a 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.*

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 disabled and/or aged, a recipient of Medicare, not pregnant, and not a caretaker to minor children. Petitioner would not be eligible for HMP because she is a recipient of Medicare. BEM 137 (June 2020) p. 1. Petitioner is also not eligible for any MA programs using MAGI methodology. As a disabled and/or aged individual, Petitioner is potentially eligible for Medicaid under the SSI-related category of Aged/Disability-Care (AD-Care).

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

It was not disputed that Petitioner was not married. As an unmarried individual, Petitioner's benefit group size for AD-Care is one. BEM 211 (July 2019) p. 8.

As of the disputed benefit month, Petitioner received gross monthly income of \$1,221 from RSDI. Exhibit A, pp. 12-13. Generally, MDHHS counts the gross amount of RSDI in determining Medicaid eligibility.<sup>3</sup> BEM 503 (April 2019) p. 28. For purposes of AD-Care, Petitioner's countable income is \$[REDACTED].

For SSI-Related MA categories, MDHHS is to apply the deductions allowed in BEM 541 for adults. BEM 163 (July 2017) p. 2. A standard \$20 disregard is given for unearned income. BEM 541 (July 2019) p. 3. AD-Care budget credits are allowed 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. Subtracting the standard \$20 disregard from Petitioner's countable income results in a countable net income of \$[REDACTED].

Net income for AD-Care cannot exceed 100% of the federal poverty level. BEM 163 (July 2017) p. 2. The 2022 annual federal poverty level for a 1-person group in Michigan for 2022 is \$13,590.<sup>4</sup> Dividing the annual amount by 12 results in a monthly income limit of \$1,133 (rounding up to nearest dollar). The same income limit is found in MDHHS

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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 exceptions were applicable to the present case.

<sup>4</sup> <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>

policy.<sup>5</sup> RFT 242 (April 2022) p. 1. Petitioner's group'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, MA eligibility is possible even when net income exceeds the income limit. BEM 105 (January 2021) p. 1. This is because incurred medical expenses are used when determining eligibility for Group 2 categories. *Id.* Group 2 categories are considered a limited benefit because a deductible is possible.<sup>6</sup> *Id.* For aged/disabled persons, G2S is the applicable Group 2 Medicaid category.

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. There was no evidence that Petitioner had any applicable 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 disregard from Petitioner's countable income results in a monthly deductible of \$826. MDHHS calculated the same deductible. Exhibit A, pp. 14-15. Thus, MDHHS properly determined Petitioner to be eligible for Medicaid subject to a monthly deductible of \$826.

### **DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner withdrew her dispute concerning FAP benefits. Concerning FAP benefits, Petitioner's hearing request is **DISMISSED**.

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 \$826 monthly deductible.


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<sup>5</sup> MDHHS policy lists an income limit of \$1,153 while noting that the \$20 disregard is already factored into the income limit.

<sup>6</sup> 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.*

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

**Via-Electronic Mail :**

**DHHS**  
MDHHS-Wayne-57-Hearings  
EQAD Hearings  
D. Sweeney  
C. George  
M. Holden  
MOAHR  
BSC4

**Via-First Class Mail :**

**Petitioner**  
[REDACTED]  
[REDACTED] [REDACTED]  
[REDACTED] MI [REDACTED]