



GRETCHEN WHITMER  
GOVERNOR

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

MARLON I. BROWN, DPA  
ACTING DIRECTOR



Date Mailed: November 14, 2023  
MOAHR Docket No.: 23-006158  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Danielle Nuccio**

### **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 telephone hearing was held on November 8, 2023. Petitioner appeared and represented himself. The Department of Health and Human Services (MDHHS) was represented by Valarie Foley, Hearings Facilitator.

### **ISSUE**

Did MDHHS properly calculate Petitioner's Medicaid (MA) spenddown amount?

### **FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Under the Families First Coronavirus Response Act (FFCRA), PL 116-127, Michigan received additional federal MA funding during the COVID-19 pandemic health emergency (PHE).
2. As a condition for receiving the increased funding, § 6008 of the FFCRA required that MDHHS provide continuous MA coverage for individuals who were enrolled in MA on or after March 18, 2020, even if those individuals became ineligible for MA for reasons other than death, residing outside of Michigan, or requesting that MA be discontinued.
3. The MA continuous coverage requirement under § 6008 of the FFCRA was not indefinite.
4. The Consolidated Appropriations Act, 2023 (CAA, 2023), PL 117-328, terminates the continuous coverage requirement effective March 31, 2023.

5. Beginning April 1, 2023, the CAA, 2023 required MDHHS to reevaluate almost all MA recipients' eligibility for ongoing MA.
6. Petitioner was an ongoing MA recipient.
7. Petitioner is an ongoing recipient of Medicare.
8. On June 22, 2023, MDHHS received Petitioner's timely submitted redetermination of MA form (Exhibit A, pp. 6-12).
9. Petitioner receives \$ [REDACTED] in monthly Retirement, Survivors, Disability Insurance (RSDI) (Exhibit A, pp. 13-15).
10. On September 2, 2023, MDHHS sent Petitioner a Health Care Coverage Determination Notice notifying Petitioner that, effective October 1, 2023, Petitioner was eligible for MA with a deductible amount of \$981.00.
11. On September 22, 2023, MDHHS received Petitioner's hearing request disputing the change in his MA coverage to include a monthly deductible or spenddown (Exhibit A, pp. 3-4).

### **CONCLUSIONS OF LAW**

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The MA program is established by Title XIX of the Social Security Act, 42 USC 1396 *et seq*; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, PL 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, PL 111-152; 42 CFR 430.10 to 42 CFR 430.25; 42 CFR 431.200 to 431.250; and 42 CFR 438.400 to 438.424. MDHHS administers the MA program pursuant to 42 CFR 435, MCL 400.10 and MCL 400.103 to MCL 400.112k of the Social Welfare Act, MCL 400.1 *et seq*.

Starting April 1, 2023, ongoing MA eligibility must be renewed. For MA beneficiaries whose MA eligibility is based on their Modified Adjusted Gross Income (MAGI)-based income, MA must be renewed once every 12 months and no more frequently than once every 12 months. 42 CFR 435.916(a)(1). For MA beneficiaries whose MA eligibility is not based on their MAGI-based income, MA eligibility must be redetermined at least every 12 months. 42 CFR 435.916(b). Any renewal form or notice must be accessible to persons who are limited English proficient and persons with disabilities. 42 CFR 435.916(f)(2).

In conducting this renewal or redetermination, MDHHS must check available information and data sources to attempt to redetermine eligibility before contacting the beneficiaries. 42 CFR 435.916(a)(2) and (b), 435.948, and 435.949. Before concluding that an individual is ineligible for MA, MDHHS must evaluate the individual's eligibility for MA on all bases for MA coverage, including the Medicare Savings Programs. 42 CFR 435.916(f)(1).

Upon reviewing Petitioner's eligibility criteria at redetermination, MDHHS concluded that Petitioner was no longer eligible for full MA coverage but is eligible under the Group 2 SSI-related (G2S) Medicaid program with a \$981.00 deductible. Petitioner disputes the change to this coverage.

Because Petitioner is a Medicare recipient and there was no evidence that Petitioner was the parent or caretaker of a minor child, Petitioner was eligible for MA only under an SSI-related category. In determining the SSI-related MA category Petitioner is eligible for, MDHHS must determine Petitioner's MA fiscal group size and net income. BEM 105 (January 2021), p. 1. Petitioner lives alone and is considered a group size of one. BEM 211 (July 2019), p. 1. Petitioner's household's net income for MA purposes is \$1,356.00 (Petitioner's gross RSDI income of \$ [REDACTED] reduced by a \$20 disregard). BEM 541 (January 2023), p. 3. Based on his net income, Petitioner has excess income for eligibility under the AD-Care program, the full-coverage SSI-related MA program. BEM 163 (July 2013), p. 2; RFT 242 (April 2017), p. 1; <https://aspe.hhs.gov/poverty-guidelines>. MDHHS concluded that Petitioner's net income of \$ [REDACTED] exceeded the net income limit and the federal poverty limit and determined that Petitioner is not eligible for the full coverage Ad-Care program.

However, clients who are ineligible for full-coverage MA coverage because of excess income may still be eligible for SSI-related MA under a Group 2 SSI (G2S) program, which provides for MA coverage with a monthly deductible. BEM 105, p. 1; BEM 166 (April 2017), p. 1. The deductible is in the amount that a client's net income (less any allowable needs deductions) exceeds the applicable Group 2 MA protected income levels (PIL). The PIL is a set amount identified in policy based on the client's MA fiscal group size and county of residence. BEM 105, p. 1; BEM 166, pp. 1-2; BEM 544 (July 2020), p. 1; RFT 240 (December 2013), p. 1; RFT 200 (April 200), p. 3. The monthly PIL for a client in Petitioner's position, with an MA fiscal group size of one living in Wayne County, is \$375.00 per month. RFT 200, p. 2; RFT 240, p. 1. Thus, if Petitioner's monthly net income (less allowable needs deductions) exceeds \$375.00, Petitioner is eligible for MA assistance under the deductible program, with the deductible equal to the amount that monthly net income, less allowable deductions, exceeds \$375.00. BEM 545 (July 2022), pp. 2-3.

MDHHS presented an SSI-related MA budget showing the calculation of Petitioner's deductible (Exhibit A, p. 5) that was reviewed on the record. In determining the monthly deductible, net income is reduced by health insurance premiums paid by the MA group and remedial service allowances for individuals in adult foster care or homes for the aged. BEM 544, pp. 1-3. In this case, Petitioner does not reside in an adult foster care


home or home for the aged and, as such, is not eligible for any remedial service allowances. The State pays Petitioner's monthly Part B Medicare premium, and there was no evidence presented that Petitioner has any other health insurance premium expenses. Because Petitioner is not responsible for health insurance premiums, he has no allowable need deductions. BEM 544, p. 1. Therefore, because Petitioner's countable income of \$ [REDACTED] for MA purposes exceeds the monthly protected income level of \$375.00 by \$ [REDACTED], MDHHS properly calculated Petitioner's monthly \$981.00 MA deductible in accordance with Department policy.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that MDHHS acted in accordance with Department policy when it determined Petitioner's MA eligibility and deductible amount.

**DECISION AND ORDER**

Accordingly, the Department's decision is **AFFIRMED**.

DN/mp



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**Danielle Nuccio**  
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 :**

**Interested Parties**

MDHHS-Wayne-19-Hearings  
EQAD Hearings  
M. Schaefer  
MOAHR  
BSC4

**Via-First Class Mail :**

**Petitioner**

[REDACTED]  
[REDACTED], MI [REDACTED]