



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES  
SUZANNE SONNEBORN  
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA  
ACTING DIRECTOR

[REDACTED], MI [REDACTED]

Date Mailed: December 19, 2023  
MOAHR Docket No.: 23-006948  
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 December 7, 2023. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Caitlin Dodge, manager.

**ISSUE**

The issue is whether MDHHS properly determined Petitioner's Medical Assistance (MA) 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 over the age of 65 years, married, a Medicare recipient, not a caretaker to minor children, and not pregnant.
2. As of September 2023, Petitioner was an ongoing recipient of Medicaid without a monthly deductible.
3. As of September 2023, Petitioner received gross monthly Retirement, Survivors and Disability Insurance (RSDI) of \$1,096 and his spouse received \$869 in monthly RSDI.

4. On September 18, 2023, MDHHS terminated Petitioner's Medicare Savings Program (MSP) eligibility beginning October 2023 due to a failure to verify information. Later that day, MDHHS approved Petitioner for MSP benefits beginning October 2023.
5. On October 12, 2023, Petitioner requested a hearing to dispute MA benefits.
6. On October 18, 2023, MDHHS determined Petitioner was eligible for Medicaid benefits subject to a \$1,406 monthly deductible beginning November 2023.

### **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 BAM, BEM, and RFT.

Petitioner requested a hearing, in part, to dispute a termination of MSP benefits.<sup>1</sup> Exhibit A, pp. 3-8. A Health Care Coverage Determination Notice dated September 18, 2023, stated that Petitioner was ineligible for MSP beginning October 2023 due to a failure to verify income. Exhibit A, pp. 71-73. During the hearing, MDHHS testified that Petitioner's MSP dispute was favorably resolved. MDHHS verified its testimony with a Health Care Coverage Determination Notice, also dated September 18, 2023, stating that Petitioner was eligible for MSP beginning October 2023. Concerning MSP, Petitioner's dispute will be dismissed because it was favorably resolved by MDHHS.

Petitioner also requested a hearing to dispute a determination of Medicaid eligibility. A Health Care Coverage Determination Notice dated October 18, 2023, stated that beginning October 2023, Petitioner was eligible for Medicaid subject to a monthly deductible. Exhibit A, pp. 74-80. To determine if MDHHS properly determined Petitioner's Medicaid eligibility, a consideration of MA categories must be undertaken.

Medicaid is also known as MA. 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> MDHHS's Hearing Summary referenced Petitioner's dispute over Food Assistance Program (FAP) eligibility. Exhibit A, pp. 1-2. However, Petitioner's written request for hearing did not reference a dispute over FAP benefits. MDHHS provided no basis for believing that Petitioner disputed FAP benefits. Because Petitioner did not appear to dispute FAP benefits, it will not be deemed as a disputed program.

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 the disputed benefit month, Petitioner was disabled and/or aged, not pregnant, a Medicare recipient, and not a caretaker to minor children. Given Petitioner's circumstances, he is ineligible for all MAGI-related categories. As a disabled and/or aged individual, Petitioner is potentially eligible to receive MA 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.* 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 resided with a spouse. For purposes of AD-Care, Petitioner's group size is two. BEM 211 (July 2019) p. 8.

As of the disputed benefit month, Petitioner received gross monthly RSDI of \$1,096 and his spouse received monthly RSDI of \$869. Generally, MDHHS counts the gross amount of RSDI in determining Medicaid eligibility.<sup>2</sup> BEM 503 (January 2023) p. 29. For SSI-Related MA, Petitioner's group's total 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 budget 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 countable income of \$1,945.

Net income for AD-Care cannot exceed 100% of the federal poverty level. BEM 163 (July 2017) p. 2. In 2023, the annual federal poverty level for a 2-person group in Michigan is \$19,720.<sup>4</sup> Dividing the annual amount by 12 results in a monthly income limit of \$1,643.50. The same income limit is found in policy.<sup>5</sup> RFT 242 (April 2023) p. 1.

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<sup>2</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>3</sup> MDHHS additionally counted \$200 in employment income. After deductions, Petitioner's group's total income was \$ [REDACTED] Exhibit A, p. 59. For purposes of this decision, it will be accepted that Petitioner's group's only income derived from RSDI.

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

<sup>5</sup> MDHHS policy lists an income limit of \$1,663.50 while noting that the \$20 disregard is already factored.

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 AD-Care or any other Group 1 category, Petitioner may still receive MA benefits 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.* For aged/disabled persons, G2S is the applicable Group 2 MA category.

Clients with a deductible may receive MA 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 \$[REDACTED] is unchanged for G2S. During the hearing, MDHHS testimony indicated that Petitioner received a small income from self-employment; the income amount was not stated, but following deductions, MDHHS stated it was \$2. Petitioner did not dispute the income amount, Petitioner's income for G2S is found to be \$[REDACTED]

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. Only the standard unearned income credit of \$20 is applicable to Petitioner.

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 \$541. RFT 240 (December 2013) p. 1.

Subtracting the PIL and \$20 disregard from Petitioner's countable income results in a monthly deductible of \$1,406: the same deductible was calculated by MDHHS.<sup>7</sup> It is found that MDHHS properly determined Petitioner's MA eligibility.

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

<sup>7</sup> MDHHS also calculated a deductible of \$1,571 for October and \$1,467 beginning January 2024. Presumably, the increased deductibles were caused by a respective increase in employment income and RSDI.

**DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS favorably resolved Petitioner's dispute of a termination of MSP benefits beginning October 2023. Concerning MSP, 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 \$1,406 monthly deductible beginning November 2023. The actions of MDHHS are **AFFIRMED**.

CG/nr



**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**

Linda Gooden  
Oakland County Southfield District III  
25620 W. 8 Mile Rd  
Southfield, MI 48033  
**MDHHS-Oakland-6303-  
Hearings@michigan.gov**

**Interested Parties**

Oakland 3 County DHHS  
BSC4  
D. Smith  
EQAD  
MOAHR

**Via-First Class Mail :**

**Petitioner**

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