



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

Date Mailed: December 7, 2023
MOAHR Docket No.: 23-007603
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 4, 2023. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Avery Smith, 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, a Medicare recipient, not a caretaker to minor children, unmarried, and not pregnant.
2. As of October 2023, Petitioner was an ongoing recipient of MA benefits.
3. As of October 2023, Petitioner received gross monthly Retirement, Survivors and Disability Insurance (RSDI) of \$1,524.
4. As of October 2023, MDHHS credited Petitioner with payment of \$107.28 in monthly insurance premiums.

5. On October 2, 2023, MDHHS determined Petitioner was eligible for MA benefits subject to a \$988 monthly deductible beginning November 2023.
6. On October 30, 2023, Petitioner requested a hearing to dispute the determination of MA benefits. Petitioner's written hearing request additionally checked a dispute over Food Assistance Program (FAP) benefits.
7. On December 4, 2023, Petitioner verbally withdrew the 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 FAP benefits. Exhibit A, pp. 3-5. During the hearing, Petitioner stated she did not intend to dispute FAP benefits and withdrew her hearing request concerning FAP benefits. Petitioner's dispute over FAP benefits will be dismissed based on the hearing request withdrawal.

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 a determination of MA eligibility. Exhibit A, pp. 3-5. A Health Care Coverage Determination Notice dated October 2, 2023, stated that Petitioner was eligible for MA subject to a monthly deductible of \$988 beginning November 2023. Exhibit A, pp. 30-40.

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.*

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, she 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 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 the disputed benefit month, Petitioner received gross monthly income of \$1,524. Generally, MDHHS counts the gross amount of RSDI in determining Medicaid eligibility.¹ BEM 503 (January 2023) p. 29. Petitioner's countable income for AD-Care is \$1,524.

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 \$1,504.

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 1-person group in Michigan is \$14,580.² Dividing the annual amount by 12 results in a monthly income limit of \$1,215. The same income limit is found in policy.³ RFT 242 (April 2023) p. 1. Petitioner's countable income exceeds the AD-Care income limit. Thus, MDHHS properly determined Petitioner to be ineligible for MA under AD-Care.

¹ 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.

² <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>

³ MDHHS policy lists an income limit of \$1,235 while noting that the \$20 disregard is already factored.

Though Petitioner is ineligible for MA benefits under AD-Care or any other Group 1 category, Petitioner may still 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.* 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.⁴ 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 \$1,524 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. MDHHS credited Petitioner with \$107.28 in monthly insurance premiums despite Petitioner not alleging to have such premiums.

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, insurance premiums, and \$20 disregard from Petitioner's countable income results in a monthly deductible of \$988 (dropping cents): MDHHS calculated the same deductible.

Petitioner testified she is a senior citizen with a psychological disorder and in need of MA without a deductible. Petitioner's testimony was sincere but has no bearing on income eligibility. Given the evidence, MDHHS properly determined Petitioner's MA eligibility beginning November 2023.

⁴ Clients should be 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 Petitioner withdrew her dispute over FAP benefits. Concerning FAP, 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 \$988 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

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