



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

Date Mailed: January 16, 2024  
MOAHR Docket No.: 23-007820  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Ellen McLemore**

### **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 January 11, 2024, via conference line. Petitioner was present and was unrepresented. The Department of Health and Human Services (Department) was represented by Megan latonna, Hearing Facilitator.

### **ISSUE**

Did the Department properly determine 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. Petitioner was an ongoing MA recipient under the full coverage Healthy Michigan Plan (HMP) program.
2. On August 18, 2023, Petitioner completed a redetermination related to her MA benefit case (Exhibit A, pp. 5-11).
3. Petitioner's household consisted of herself and her daughter.

4. Petitioner had unearned income in the form of Retirement, Survivors and Disability Insurance (RSDI) in the gross monthly amount of \$1,917.90 and her daughter had RSDI income in the gross monthly amount of \$959 per month.
5. On October 6, 2023, the Department sent Petitioner a Health Care Coverage Determination Notice informing her that she was eligible for MA benefits under the limited coverage Plan First MA program and under the Group 2 SSI-related (G2S) MA category effective November 1, 2023, ongoing (Exhibit A, pp. 15-21).
6. On October 25, 2023, Petitioner submitted a request for hearing disputing the Department's actions.

### **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 Medical Assistance (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. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

In this case, Petitioner was an ongoing MA recipient under the full-coverage HMP MA program. In August 2023, Petitioner completed a redetermination related to her MA benefit case. The Department determined that Petitioner was eligible for MA benefits under the G2S program with a monthly deductible of \$1,191.

Petitioner is a Medicare recipient. As such, the Department testified that Petitioner does not qualify for MA benefits under the Health Michigan Plan (HMP) program. The HMP program provides health care coverage for individuals who are: (i) 19-64 years of age; (ii) do not qualify for or are not enrolled in Medicare; (iii) do not qualify for or are not enrolled in other Medicaid programs; (iv) are not pregnant at the time of application; (v) meet Michigan residency requirements; (vi) meet Medicaid citizenship requirements; and (vii) have income at or below 133% of the Federal Poverty Level. BEM 137 (January 2018), p. 1. As Petitioner is a Medicare recipient, the Department properly concluded she is not eligible for HMP benefits.

As a disabled and/or aged individual, Petitioner is potentially eligible to receive MA benefits through AD-Care. Ad-Care is an SSI-related full-coverage MA program. BEM 163 (July 2017), p. 1. It was not disputed that Petitioner receives \$1,917.90 per month

in RSDI benefits. As Petitioner is not married, per policy, Petitioner's fiscal group size for SSI-related MA benefits is one. BEM 211 (July 2019), p. 8. The Department gives AD-Care budget credits for employment income, and guardianship and/or conservator expenses. Petitioner did not allege any such factors were applicable. Income eligibility for AD-Care exists when countable income does not exceed the income limit for the program. BEM 163 (July 2022), p. 2. The income limit for AD-Care for a one-person MA group is \$1,235. RFT 242 (April 2022), p. 1. Because Petitioner's monthly household income exceeds \$1,235, the Department properly determined Petitioner to be ineligible for MA benefits under AD-Care.

Petitioner may still receive MA benefits subject to a monthly deductible through a Group 2 Medicaid category. Petitioner may still receive MA benefits subject to a monthly deductible through the G2S program. G2S is an SSI-related MA category. BEM 166 (April 2017), p.1. Petitioner also has a minor child, and therefore, she is eligible for MA coverage under the Group 2-Caretaker (G2C) MA category.

The Department is required to approve clients for MA benefits under the most beneficial MA category. Federal law gives them the right to the most beneficial category. BEM 105, p. 2. The most beneficial category is the one that results in eligibility, the least amount of excess income or the lowest cost share. BEM 105, p. 2. Generally, the G2C program has lower deductible rates than the G2S program. The Department failed to establish that Petitioner's eligibility was reviewed under the G2C program and that she was approved with the lowest deductible. Therefore, the Department failed to establish that it properly determined Petitioner's MA eligibility.

Additionally, the Department testified that Petitioner's MA benefit case was pending verification of her assets. The Department stated that a Verification Checklist (VCL) was sent to Petitioner on September 26, 2023, with a due date of October 5, 2023. The Department testified that Petitioner did not submit the requested verifications, and as a result, her MA case will be certified as closed effective November 1, 2023.

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (April 2017), p. 1. To request verification of information, the Department sends a verification checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. For MA cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verification that is required. BAM 130 (April 2017), p. 7. If the client cannot provide the verification despite a reasonable effort, the Department will extend the time limit up to two times. BAM 130, p. 8. The Department sends a negative action notice when: the client indicates a refusal to provide a verification OR the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 7.

Petitioner testified that the Department requested verification of numerous bank accounts. Petitioner stated that she has never held accounts at the banks for which the

Department was requesting verification. Petitioner stated that the Department's information may be a result of identity theft.

The Department did not present the VCL or any further information regarding the asset verification request. It is unclear as to what particular asset or assets the Department was attempting to verify. Therefore, when redetermining Petitioner's eligibility, the Department shall redetermine Petitioner's eligibility in regard to her asset eligibility.

### **DECISION AND ORDER**

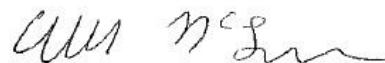
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner's MA eligibility.

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

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Redetermine Petitioner's MA eligibility as of November 1, 2023, ongoing;
2. Provide Petitioner with MA coverage she is eligible to receive; and
3. Notify Petitioner of its decision in writing.

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**Ellen McLemore**  
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.

