



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], MI [REDACTED]

Date Mailed: February 9, 2024  
MOAHR Docket No.: 23-008191  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Linda Jordan**

### **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 on January 31, 2024, via teleconference. Petitioner appeared and represented herself. Dania Ajami, Lead Eligibility Specialist, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department).

### **ISSUE**

Did MDHHS properly determine Petitioner's eligibility for Medicaid (MA) coverage?

### **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 recipient of MA and Medicare Savings Program (MSP) benefits.
2. On October 25, 2023, Petitioner submitted a Redetermination for MA (Exhibit A, p. 10).
3. On November 7, 2023, MDHHS sent Petitioner a Health Care Coverage Determination Notice indicating that she was approved for MA with a \$1,434.00 deductible, beginning December 1, 2023 (Exhibit A, p. 20).
4. On November 13, 2023, Petitioner filed a Request for Hearing regarding her MA coverage (Exhibit A, pp. 3-7).

## 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).

Medicaid (MA) 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 MA pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MA is also known as Medical Assistance. BEM 105 (January 2021), p. 1.

Medicare Savings Program (MSP) is a state program administered by MDHHS in which the state pays an eligible client's Medicare premiums, coinsurances, and deductibles, with coverage depending on the MSP program that the client is income-eligible for. BEM 165 (October 2020), pp 1-2; BAM 810 (January 2020), p. 1. All eligibility factors for the program must be met in the calendar month being tested. BEM 165, p. 2. There are three MSP categories: (1) QMB (Qualified Medicare Beneficiary), which pays for a client's Medicare premiums (both Part A, if any, and Part B), Medicare coinsurances and Medicare deductibles; (2) Specified Low-Income Medicare Beneficiaries (SLMB), which pays for a client's Medicare Part B premiums; and (3) Additional Low Income Medicare Beneficiaries (ALMB), which pays for a client's Medicare Part B premiums when funding is available. BEM 165, pp. 1-2.

In this case, MDHHS determined that Petitioner was eligible for MA with a monthly deductible of \$1,434.00, effective December 1, 2023 ongoing. Additionally, MDHHS determined that Petitioner was ineligible for MSP benefits due to excess income. However, no notice regarding the MSP benefits was introduced at the hearing and MDHHS did not introduce budgets to show how it calculated Petitioner's income.

MA includes several sub-programs or categories. BEM 105, p. 1. 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.* MA eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, MIChild, Flint Water Group and Health Michigan Plan (HMP) is based on Modified Adjusted Gross Income (MAGI) methodology. *Id.* The terms Group 1 and Group 2 relate to financial eligibility factors. *Id.* For Group 1, net income (countable income minus allowable income deductions) must be at or below a certain income limit for eligibility to exist. *Id.* The income limit, which varies by category, is for nonmedical needs such as food and shelter. *Id.* Medical expenses are not used when determining eligibility for MAGI-related and SSI-related Group 1 categories. *Id.* For Group 2, eligibility is possible even when net income exceeds the income limit. *Id.*

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. *Id.*

G2S MA is an SSI-related MA category available to a person who is aged (65 or older), blind, or disabled. BEM 166 (April 2017), p. 1. Income eligibility exists when net income does not exceed the Group 2 needs in BEM 544. *Id.* If net income exceeds the Group 2 needs, MA eligibility is still possible with a deductible. *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.*

To evaluate Petitioner's eligibility for MA, MDHHS must determine Petitioner's MA fiscal group size, net income and assets. MDHHS determines fiscal and asset groups separately for each person requesting MA. BEM 211 (July 2019), p. 5. Here, MDHHS determined that Petitioner was eligible for an SSI-related category based on age and receipt of Retirement, Survivors, and Disability Insurance (RSDI) income. MDHHS determined that Petitioner had a group-size of one and received monthly RSDI income in the amount of \$1,829.00 (Exhibit A, p. 14). Petitioner did not dispute these determinations. Petitioner was entitled to the \$20.00 disregard, which would bring her net income to \$1,809.00. BEM 541 (January 2023), p. 3. There was no evidence of other SSI-related MA income deductions.

Based on Petitioner's circumstances, she was potentially eligible for Ad-Care MA. The Ad-Care program is a group 1, full-coverage SSI-related MA program for disabled individuals who are income-eligible based on their MA fiscal group size. BEM 163 (July 2017), p. 1. However, net income for this program cannot exceed 100% of the Federal Poverty Level (FPL) or \$1,235.00 or less for a fiscal group-size of one. *Id.* RFT 242 (April 2023), p. 1. Petitioner's income exceeded this amount and therefore, she was not eligible for Ad-Care MA.

MDHHS alleged that Petitioner was eligible for G2S MA, which is an SSI-related Group 2 MA category. BEM 166, p. 1. MDHHS considers eligibility under this category only when eligibility does not exist under BEM 155 through 164, 170 or 171. *Id.* Income eligibility exists for G2S MA when net income does not exceed the Group 2 needs in BEM 544. *Id.*, p. 2. If the net income exceeds Group 2 needs, MA eligibility is still possible with a deductible, per BEM 545. *Id.* The deductible is equal to the amount the individual's net income, calculated in accordance with the applicable Group 2 MA policy, minus the applicable Group 2 MA protected income level (PIL). The PIL is a set allowance for non-medical need items such as shelter, food and incidental expenses that is based on the county in which the client resides and the client's fiscal MA group size. BEM 544 (January 2020), p. 1. The PIL for Wayne County, where Petitioner resided, for a one-person MA group, is \$375.00. RFT 200 (April 2017), p. 2; RFT 240 (December 2013), p. 1.

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. No evidence was presented that Petitioner resided in an adult foster care home or home for the aged. Therefore, she was not eligible for any deductions for remedial service allowances. MDHHS testified that Petitioner was over the income-limit for Medicare Savings Program (MSP) benefits, and therefore, Petitioner was responsible for paying the Medicare Part B premium. However, no determination regarding MSP was introduced at the hearing and it is unclear from the record when MDHHS made the determination regarding MSP and when her benefits terminated. Petitioner's eligibility for MSP affects the calculation of the deductible amount. Although MDHHS did not introduce a MA budget to show how it calculated the deductible amount, it testified that Petitioner's Medicare Part B premium was factored into its determination. Deducting the Medicare Part B premium of \$174.70 from Petitioner's countable income of \$[REDACTED] equals \$1,634.30. Subtracting the PIL of \$375.00 equals a deductible of \$1,259.30. MDHHS determined that Petitioner's deductible was \$1,434.00. It appears that the \$1,434.00 deductible amount does not reflect Petitioner's Medicare Part B premium. Given the discrepancy in the deductible amounts, MDHHS has not demonstrated that it properly determined Petitioner's eligibility for MA.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner's eligibility for MA.

### **DECISION AND ORDER**

Accordingly, MDHHS' decision is **REVERSED**. MDHHS 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 eligibility for MA and MSP benefits, effective December 1, 2023 ongoing;
2. Provide Petitioner with the most beneficial MA and MSP coverage that she is eligible to receive, from December 1, 2023 ongoing; and

3. Notify Petitioner of its decision in writing.



LJ/nr

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**Linda Jordan**  
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**

Caryn Jackson  
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**Interested Parties**

Wayne 55 County DHHS  
BSC4  
M. Schaefer  
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**Via-First Class Mail :**

**Petitioner**

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