



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: February 1, 2024
MOAHR Docket No.: 23-008742
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 25, 2024, via teleconference. Petitioner appeared and represented herself. Karl Norgan, Eligibility Specialist, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department). MDHHS offered documents into evidence, which were admitted as MDHHS Exhibit A, pp. 1-16.

ISSUE

Did MDHHS properly determine Petitioner's Medicaid (MA) and Medicare Savings Plan (MSP) 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 recipient of MA and MSP benefits.
2. On September 13, 2023, MDHHS sent Petitioner a Health Care Coverage Determination Notice indicating that she was approved for Plan First MA, a limited coverage MA category, effective July 1, 2023 ongoing (Exhibit A, p. 14). The notice also indicated that Petitioner was approved for MSP from November 1, 2022 to March 31, 2023 (Exhibit A, p. 14).

3. On November 6, 2023, Petitioner requested a hearing to dispute MDHHS' determination regarding her MA coverage (Exhibit A, p. 3).

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.

The 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 category that the client is income-eligible for. BEM 165 (October 2022), 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 Plan First MA, a limited coverage category, and that Petitioner was ineligible for MSP benefits. At the hearing, MDHHS testified that Petitioner was also approved for Group 2 Aged, Blind, Disabled (G2S) MA, with a monthly deductible. The documentation provided by MDHHS shows that Petitioner was approved for G2S MA with a deductible of \$1,091.00, effective October 1, 2023 ongoing (Exhibit A, p. 11). No evidence was presented that MDHHS sent notice to Petitioner regarding the G2S MA determination and the deductible amount, contrary to policy in BAM 220 (October 2023), p. 2, which requires MDHHS to send clients notice upon certification of eligibility results.

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.* Plan First MA is a MAGI-related limited coverage MA category, that covers services related to family planning and reproductive health. To be eligible for Plan First, a person must meet all non-financial eligibility factors and their income cannot exceed 195% of the Federal Poverty Level (FPL). BEM 124 (July 2023), p. 1. 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. In this case, MDHHS based Petitioner's income calculation on the receipt of \$[REDACTED] in Retirement, Survivors, Disability Insurance (RSDI) income (Exhibit A, p. 13). Petitioner did not dispute this amount.

RSDI is a federal benefit administered by the Social Security Administration that is available to retired and disabled individuals, their dependents, and survivors of deceased workers. BEM 503 (January 2023), p. 29. MDHHS counts the gross benefit amount as unearned income. *Id.* Gross income is the amount of income before any deductions such as taxes or garnishments. *Id.* This may be more than the actual amount an individual receives. *Id.* Gross income includes amounts withheld to repay a debt or meet a legal obligation. *Id.* There was no evidence of SSI-related MA deductions in this case. Petitioner was entitled to the \$20.00 disregard, which would bring her net earned income to \$[REDACTED]. BEM 541 (January 2023), p. 3. There was no evidence of other SSI-related MA income deductions.

Regarding MSP, effective April 1, 2023, the income limit for a fiscal group of one was \$1,235.00 for QMB, \$1,478.00 for SLMB and \$1,660.25 for ALMB. RFT 242, p. 1. Petitioner's countable net income, including the \$20.00 disregard, was \$[REDACTED]. Petitioner was over the income limit for MSP. Thus, MDHHS properly determined that she was ineligible for MSP coverage.

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). *Id.* To be income eligible for this program, Petitioner's income would have had to be \$1,235.00 or less for a fiscal group-size of one. 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 ██████ County, where Petitioner resides, for a one-person MA group, was \$408.00. 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. In this case, 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 not receiving MSP coverage. Therefore, Petitioner was entitled to a deduction of \$164.90 for her Medicare Part B premium (Exhibit A, p. 7). After applicable deductions, Petitioner's countable income was \$██████. Subtracting the PIL of \$408.00 equals \$██████ (dropping the cents). Therefore, Petitioner was eligible for G2S MA with a monthly deductible of \$██████.

Additionally, Petitioner was eligible for Plan First MA, because her annual income of \$██████ was less than 195% of FPL, or \$██████.¹

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 MDHHS acted in accordance with Department policy when it determined Petitioner's eligibility for MA and MSP.

¹ See ASPE, Poverty Guidelines, available at <<https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines/prior-hhs-poverty-guidelines-federal-register-references>> (last accessed February 1, 2024).

DECISION AND ORDER

Accordingly, MDHHS' decision is **AFFIRMED**.



LJ/tm

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

Chelsea McCune
Macomb County DHHS Warren Dist.
13041 E 10 Mile
Warren, MI 48089

**MDHHS-Macomb-20-
Hearings@michigan.gov**

Interested Parties

M. Schaefer
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Via-First Class Mail :

Petitioner

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