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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  
DIRECTOR

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

Date Mailed: March 6, 2024  
MOAHR Docket No.: 23-009975  
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 February 29, 2024. Petitioner did not participate. [REDACTED] Petitioner's father and guardian, testified and participated as Petitioner's authorized hearing representative (AHR). The Michigan Department of Health and Human Services (MDHHS) was represented by Jacob Frankmann, supervisor.

### **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. As of December 2023, Petitioner was disabled, at least 19 years of age, not a caretaker to minor children, unmarried, not employed, and not pregnant. Petitioner also had guardianship expenses.
2. As of December 2023, Petitioner received gross monthly Retirement, Survivors and Disability Insurance (RSDI) of \$1,256.
3. As of December 2023, Petitioner was an ongoing recipient of Medicaid under the MA category of Freedom to Work (FTW).

4. On December 28, 2023, Petitioner's AHR reported to MDHHS that Petitioner was no longer employed.
5. On January 9, 2024, MDHHS determined Petitioner to be eligible for Medicaid subject to a \$828 monthly deductible beginning February 2024.
6. On January 12, 2024, Petitioner's AHR disputed Petitioner's Medicaid eligibility.

### **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 Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner's AHR requested a hearing to dispute a change in Petitioner's Medicaid eligibility.<sup>1</sup> Exhibit B, pp. 3-5. The change occurred after Petitioner's AHR reported to MDHHS on December 28, 2023, that Petitioner was no longer employed.<sup>2</sup> A Health Care Coverage Determination Notice dated January 9, 2024, stated that Petitioner was eligible for Medicaid subject to a monthly \$828 deductible beginning February 2024. To determine if MDHHS properly determined Petitioner's Medicaid eligibility, a consideration of Medicaid categories is necessary.

Medicaid is also known as MA. BEM 105 (October 2023) 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, at least 19 years of age, not pregnant, a Medicare recipient, and not a caretaker to minor children. Given the

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<sup>1</sup> Petitioner also disputed Medicare Savings Program (MSP) eligibility. The dispute over MSP eligibility was resolved under MOAHR docket no. 23-009831.

<sup>2</sup> Petitioner's stoppage in employment renders him ineligible for the category of FTW (see BEM 174). MDHHS properly redetermined Petitioner's MA eligibility under other MA categories.

circumstances, Petitioner is ineligible for all MAGI-related categories. As a disabled 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 \$1,256 (dropping cents) from RSDI. Generally, MDHHS counts the gross amount of RSDI in determining Medicaid eligibility.<sup>3</sup> BEM 503 (January 2023) p. 29. Petitioner's starting budget income for AD-Care is \$1,256.

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 a running countable income of \$1,236.

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. MDHHS did not factor any expenses in determining Petitioner's AD-Care eligibility. However, Petitioner's AHR was Petitioner's guardian. Clients with guardian expenses are entitled to a budget credit of \$83. BEM 541 (January 2024) p. 3. Because Petitioner had a guardian, MDHHS should have factored an \$83 budget credit.<sup>4</sup> Subtracting the \$83 guardianship credit results in a countable net income of \$[REDACTED]

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.<sup>5</sup> Dividing the annual amount by 12 results in a monthly income limit of \$1,215. The same income limit is found in policy.<sup>6</sup> RFT 242 (April 2023) p. 1. Petitioner's countable income of \$[REDACTED] does not exceed the AD-Care income limit.

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<sup>3</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>4</sup> Verification of guardianship expenses is required BEM 541 (January 2024) p. 3. Because guardianship was already acknowledged by MDHHS, guardianship expenses are presumed.

<sup>5</sup> <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>.

<sup>6</sup> MDHHS policy lists an income limit of \$[REDACTED] while noting that the \$20 disregard is already factored.

Thus, MDHHS improperly determined Petitioner to be over the income limit AD-Care. As a remedy, MDHHS will be ordered to reprocess Petitioner's FAP eligibility.

**DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly determined Petitioner's Medicaid eligibility. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Reprocess Petitioner's Medicaid eligibility beginning January 2024 subject to the finding that Petitioner has guardianship expenses; and
- (2) Issue notice and benefit supplements in accordance with policy.

The actions taken by MDHHS are **REVERSED**.

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**

Yaita Turner  
Oakland County Southfield District III  
25620 W. 8 Mile Rd  
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**MDHHS-Oakland-6303-  
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**Interested Parties**

Oakland 3 County DHHS  
BSC4  
M. Schaefer  
EQAD  
MOAHR

**Via-First Class Mail :**

**Petitioner**

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

**Authorized Hearing Rep.**

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