



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES  
SUZANNE SONNEBORN  
EXECUTIVE DIRECTOR

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DIRECTOR

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

Date Mailed: March 25, 2024  
MOAHR Docket No.: 24-000139  
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 Zoom video conference on March 21, 2024. Petitioner did not participate. [REDACTED] Petitioner's daughter, participated as Petitioner's authorized hearing representative (AHR). 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. On July 20, 2023, Petitioner returned to MDHHS redetermination documents to MDHHS and reported being disabled, at least 19 years of age, not a Medicare recipient, not a caretaker to minor children, unmarried, and not pregnant.
2. As of November 2023, Petitioner was an ongoing recipient of MA benefits.
3. As of November 2023, Petitioner received gross monthly Retirement, Survivors and Disability Insurance (RSDI) of \$1,497.

4. On October 10, 2023, MDHHS determined Petitioner was eligible for the limited coverage MA category of Plan First as well as full Medicaid subject to a \$1,069 monthly deductible beginning November 2023.
5. On January 4, 2024, Petitioner's AHR requested a hearing to dispute the determination of MA benefits.

### **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 determination of MA eligibility. Exhibit A, pp. 3-4. A Health Care Coverage Determination Notice dated October 10, 2023, stated that Petitioner was eligible for the limited coverage MA category of Plan First beginning November 2023.<sup>1</sup> Exhibit A, pp. 15-18. The notice also stated that Petitioner was eligible for full Medicaid, though subject to a monthly deductible of \$1,069. Exhibit A, pp. 15-18

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.*

In July 2023, Petitioner submitted to MDHHS redetermination documents reporting she was the following: disabled and/or aged, at least 19 years of age, not pregnant, a

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<sup>1</sup> Plan First is a limited-coverage MA category available to any United States citizen or individual with a valid immigration status. BEM 124 (July 2023) p. 1. It is not considered to be "full coverage" because its coverage is limited to family planning services. (see Form DCH-2840-MSA)

Medicare recipient, and not a caretaker to minor children.<sup>2</sup> Exhibit A, pp. 5-11. There was no evidence that any of Petitioner's circumstances changed before the disputed benefit month. Given the circumstances, Petitioner 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. BEM 105 (October 2023) p. 1. For Group 1 categories, 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 RSDI of \$1,497. Exhibit A, pp. 12-14. Generally, MDHHS counts the gross amount of RSDI in determining Medicaid eligibility.<sup>3</sup> BEM 503 (January 2023) p. 29. For AD-Care, Petitioner's countable income is \$1,497.

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. For the disputed benefit month, no budget credits are applicable.

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 Petitioner's RSDI results in countable income of \$1,477.

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>4</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>5</sup> RFT 242 (April 2023) p. 1. Petitioner's countable income exceeds the AD-Care income limit. Presumably, the group's income is within the income guidelines of the limited coverage MA category of Plan First (see BEM 124). Given the evidence, MDHHS properly determined Petitioner to be ineligible for MA under AD-Care.

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<sup>2</sup> Petitioner circumstances were consistent with redetermination documents submitted to MDHHS on August 14, 2023. Exhibit A, pp. 11-16.

<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> <https://www.healthcare.gov/glossary/federal-poverty-level-fpl/>

<sup>5</sup> MDHHS policy lists an income limit of \$1,235 while noting that the \$20 disregard is already factored into the income limit.

Though Petitioner is ineligible for MA benefits under AD-Care or any other full-Medicaid 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. BEM 105 (January 2023) p. 1. 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 (see BEM 166).

Clients with a deductible may receive Medicaid if sufficient allowable medical expenses are incurred.<sup>6</sup> BEM 545 (July 2022) 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 RSDI of \$1,497 is countable for G2S. The G2S budget allows a \$20 disregard for unearned income and various employment income disregards. COLA is also applicable for January, February, and March budget months. The G2S budget also factors ongoing medical expenses (which are applied toward a deductible), insurance premiums, and remedial services. The only applicable deduction is the standard \$20 unearned income disregard.

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 (see RFT 200) and group size is \$408. RFT 240 (December 2013) p. 1.

Subtracting the PIL (\$408) and \$20 disregard from Petitioner's countable income results in a monthly deductible of \$1,069; MDHHS calculated the same deductible. Exhibit A, p. 21.

Petitioner's AHR testified that Petitioner currently attends many helpful medical treatments which will end due to a lack of affordability if Petitioner is no longer eligible for full Medicaid. Petitioner's AHR's testimony was sincere; however, it is not relevant to Petitioner's income eligibility for Medicaid. Given the evidence, MDHHS properly determined Petitioner's MA eligibility beginning November 2023.

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<sup>6</sup> Clients should be fully 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 MDHHS properly determined Petitioner to be eligible for Plan First and a monthly deductible of \$1,069 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**

Yaita Turner  
Oakland County Southfield District III  
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**Interested Parties**

Oakland 3 County DHHS  
BSC4  
M. Schaefer  
EQAD  
MOAHR

**Via-First Class Mail :**

**Petitioner**

[REDACTED]  
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[REDACTED], MI [REDACTED]

**Authorized Hearing Rep.**

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