



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
DIRECTOR

[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: April 10, 2024
MOAHR Docket No.: 24-000549
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 April 3, 2024. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Princess Ogundipe, supervisor.

ISSUES

The first issue is whether MDHHS properly determined Petitioner's Medicaid eligibility.

The second issue is whether MDHHS properly terminated Petitioner's Medicare Savings Program (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. On September 17, 2019, Petitioner submitted to MDHHS redetermination documents reporting that he and his spouse, [REDACTED] [REDACTED] (hereinafter, "Spouse") resided together.
2. On an unspecified date in 2019, MDHHS determined Petitioner was eligible for full-coverage Medicaid and MSP based on Petitioner being an unmarried individual.

3. During 2023, Petitioner received gross monthly Retirement, Survivors and Disability Insurance (RSDI) of \$1,122.
4. During 2023, Spouse received gross monthly RSDI of \$1,142 (dropping cents)
5. As of October 2023, Petitioner was over the age of 65 years, married to Spouse, a Medicare recipient, not a caretaker to minor children, and not pregnant.
6. On October 31, 2023, MDHHS determined that Petitioner was eligible for the limited-coverage category of Plan First effective December 2023. MDHHS also determined that Petitioner was eligible for Medicaid subject to a \$1,705 per month deductible.
7. Beginning January 2024, Petitioner received \$1,158 in gross monthly RSDI.
8. Beginning January 2024, Petitioner received \$1,179 in gross monthly RSDI.
9. On January 3, 2024, MDHHS terminated Petitioner's MSP eligibility beginning December 2023 due to excess income.
10. On January 9, 2024, Petitioner requested a hearing to dispute Medicaid and MSP eligibility.
11. As of February 2024, MDHHS determined that Petitioner was eligible for a monthly deductible of \$1,528.

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 BAM, BEM, and RFT.

Petitioner requested a hearing, in part, to dispute a termination of MSP benefits. Exhibit A, pp. 4-5. A Health Care Coverage Determination Notice dated January 3, 2024, stated that Petitioner was ineligible for MSP beginning December 2023 due to excess income. Exhibit A, pp. 22-24.

MSP is an SSI-related Medicaid category. BEM 165 (October 2022) p. 1. One of three different subprograms are available under MSP. Qualified Medicare Beneficiaries (QMB) coverage pays for a client's Medicare premiums, coinsurances, and deductibles. *Id.* Specified Low Income Beneficiaries (SLMB) coverage pays for a client's Medicare Part B premium. *Id.* Additional Low-Income Beneficiaries (ALMB) coverage pays for a

client's Medicare Part B premium if MDHHS funding is available. *Id.* The client's income determines the MSP subprogram issued (see RFT 242).

For MSP, MDHHS is to determine countable income according to the SSI-related MA policies in BEM 165, 500, 501, 502, 503, 504 and 530. BEM 165 (October 2022) p. 8. MDHHS is to apply the deductions in BEM 540 (for children) and 541 (for adults) to determine a client's net income for MSP. *Id.*

Petitioner submitted to MDHHS redetermination documents on September 17, 2019, reporting that he resided with Spouse.¹ Exhibit A, pp. 14-21. It was not disputed that Petitioner continued residing with Spouse through the date of the hearing. As a married individual residing with his spouse, Petitioner's MSP benefit group size is two persons.²

MDHHS presented documents from the Social Security Administration verifying that Petitioner received \$1,122 in gross monthly RSDI during 2023. It was not disputed that Spouse received gross monthly RSDI of \$1,142. Generally, MDHHS counts the gross amount of RSDI in determining MA eligibility.³ BEM 503 (April 2019), p. 28. For MSP, Petitioner's benefit group's monthly countable income totals \$2,264.

For SSI-related MA categories such as MSP, MDHHS allows a standard \$20 disregard for unearned income, disregards for employment income, guardianship/conservatorship expense credits, and a disregard for cost-of-living adjustments (January through March only). The only applicable disregard and/or credit is the standard \$20 disregard for unearned income. Applying the disregard to Petitioner's group's RSDI results in a net income is \$2,244.

Income eligibility exists for MSP when net income is within the limits in RFT 242 or 247. *Id.*, p. 8. After the \$20 disregard is factored, the highest income limit for any MSP category for a group size of two persons is \$2,219 (rounding up to nearest dollar).⁴ RFT 242 (April 2023) p. 1. Petitioner's group's countable net income exceeds the highest income limit for MSP eligibility. Thus, MDHHS properly terminated Petitioner's application for MSP benefits due to excess income.

Petitioner also requested a hearing to dispute a determination of Medicaid eligibility. Exhibit A, pp. 4-5. A Health Care Coverage Determination Notice dated October 31,

¹ MDHHS acknowledged it failed to act on Petitioner's reporting in 2019 which caused incorrect MSP and Medicaid eligibility for Petitioner. MDHHS testified that when it correctly updated Petitioner's household is when Petitioner's MSP and MA eligibility ended.

² See BEM 211 for determining the group size for MA benefits.

³ 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.

⁴ MDHHS policy lists an income limit of \$2,238.50 while noting that the \$20 disregard is already factored.

2023, Petitioner was eligible for limited-coverage category of Plan First.⁵ Exhibit A, pp. 25-28. The notice also stated that Petitioner was eligible for Medicaid subject to a \$1,705 per month deductible. *Id.* MDHHS reduced the deductible to \$1,528 as February 2024. Exhibit A, p. 34. To determine if MDHHS properly determined Petitioner's Medicaid eligibility, a consideration of MA categories must be undertaken.

Medicaid is also known as MA. BEM 105 (January 2024) 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 and/or aged, not pregnant, a Medicare recipient, and not a caretaker to minor children. Under the circumstances, Petitioner is ineligible for all full-coverage 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 (January 2024) 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 resided with a spouse. For purposes of AD-Care, Petitioner's group size is two. BEM 211 (July 2019) p. 8.

As concluded in the MSP analysis, Petitioner's and Spouse's combined RSDI in 2023 totaled \$2,264. Because AD-Care is an SSI-related MA category, Petitioner is entitled to the \$20 unearned income deduction. Petitioner's group's net income for AD-Care is \$2,245.

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. Petitioner did not allege any relevant budget expenses or credits.

⁵ 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. Generally, its coverage is limited only to family planning services. (see Form DCH-2840-MSA).

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 2-person group residing in Michigan is \$19,720.⁶ Dividing the annual amount by 12 results in a monthly income limit of \$1,643.50. The same income limit is found in policy.⁷ RFT 242 (April 2023) p. 1. Petitioner's group's countable income exceeds the AD-Care income limit.⁸ Given the evidence, MDHHS properly determined Petitioner to be ineligible for MA under AD-Care.

Though Petitioner is ineligible for MA benefits under AD-Care or any other Group 1 category offering unlimited MA coverage, 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).

Deductible is a process which allows a client with excess income to become eligible for Group 2 MA if sufficient allowable medical expenses are incurred. BEM 545 (July 2022) p. 10. 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 countable income of \$2,244 from the AD-Care analysis is unchanged for G2S. The G2S budget additionally allows deductions for ongoing medical expenses (which are applied towards a deductible), insurance premiums, and remedial services. Additional expenses were not factored other than a \$175 credit for insurance premiums.

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 and group size is \$541. RFT 240 (December 2013) p. 1.

Subtracting the PIL (\$541) and insurance premiums (\$175) from Petitioner's group's countable income (\$2,244) results in a monthly deductible of \$1,528: the same deductible calculated by MDHHS.⁹ Exhibit A, p. 34.

Petitioner submitted a list of monthly expenses and stated that losing MSP and Medicaid would be financially devastating. Exhibit A, p. 13. The expenses were not

⁶ <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>

⁷ MDHHS policy lists an income limit of \$1,663.50 while noting that the \$20 disregard is already factored.

⁸ Presumably, the group's income is within the income guidelines of the limited coverage MA category of Plan First (see BEM 124).

⁹ MDHHS's budget was for a benefit month in 2024 and calculated a \$1,528 monthly deductible. However, the budget factored Petitioner's and Spouse's RSDI from 2024 as well as COLA.

relevant to the eligibility determination. Though Petitioner's testimony was sincere, it also was not relevant to the determination. It is found that MDHHS properly determined Petitioner's MA eligibility.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly terminated Petitioner's MSP eligibility beginning December 2023. MDHHS additionally properly determined Petitioner's Medicaid eligibility beginning December 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

Jared Ritch
Oakland County Pontiac-Woodward
Dist.
51111 Woodward Ave 5th Floor
Pontiac, MI 48342

**MDHHS-Oakland-District-IV-
Hearings@michigan.gov**

Interested Parties

Oakland 4 County DHHS
BSC4
M. Schaefer
EQAD
MOAHR

Via-First Class Mail :

Petitioner

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