



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], MI [REDACTED]

Date Mailed: March 27, 2024
MOAHR Docket No.: 24-001144
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 March 21, 2024. Petitioner participated and was represented. The Michigan Department of Health and Human Services (MDHHS) was represented by Shyla Coleman, hearings facilitator.

ISSUE

The issue is whether MDHHS properly determined Petitioner's Medicaid (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 October 2023, Petitioner was disabled, a recipient of Medicare, not pregnant, and not a caretaker to minor children.
2. As of October 2023, Petitioner received gross monthly Retirement, Survivors and Disability Insurance (RSDI) of \$1,368.90.
3. On September 18, 2023, MDHHS determined that Petitioner was eligible for Medicaid subject to a monthly deductible of \$808 beginning October 2023.
4. On February 2, 2024, Petitioner requested a hearing to dispute ongoing MA 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 requested a hearing to dispute a determination of MA benefits. Exhibit A, p. 3. A Health Care Coverage Determination Notice dated September 18, 2023, stated that Petitioner was eligible for Medicaid subject to a monthly deductible of \$808 beginning October 2023.¹ Exhibit A, pp. 6-9. MDHHS testified that Petitioner's deductible has since increased to \$973.

Medicaid is also known as MA. BEM 105 (January 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.*

Petitioner's testimony acknowledged that she was disabled, a recipient of Medicare, not pregnant, and not a caretaker to minor children. Given Petitioner's circumstances, she is ineligible for all MAGI-related categories. As a disabled and/or aged individual, Petitioner is potentially eligible for Medicaid 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 unmarried individuals without minor children, Petitioner's AD-Care group size is one. BEM 211 (July 2019) p. 8.

¹ Petitioner denied receiving the notice.

As of the disputed benefit month, Petitioner received gross monthly income of \$1,368 (dropping cents) from RSDI. Generally, MDHHS counts the gross amount of RSDI in determining Medicaid eligibility.² BEM 503 (January 2023) p. 29. Petitioner's monthly countable income is \$1,368 for purposes of AD-Care eligibility.

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. *Id.*, p. 30. Petitioner did not allege any relevant budget expenses or credits.

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 (January 2023) p. 3. Subtracting the \$20 disregard results in a net income of \$1,627.

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 (FPL) for a 1-person group in Michigan is \$14,580.³ Dividing the FPL by 12 results in a monthly income limit of \$1,215: the same income limit is found in MDHHS policy.⁴ RFT 242 (April 2023) p. 1. Petitioner's monthly countable income exceeds the AD-Care income limit. Thus, 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 MA 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. *Id.*

Clients with a deductible may receive Medicaid if sufficient allowable medical expenses are incurred.⁵ 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 gross countable RSDI of \$1,368 is unchanged for G2S. The G2S budget allows a standard \$20 disregard for unearned income and various employment income

² 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.

³ <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>

⁴ MDHHS policy lists an income limit of \$1,235 while noting that the \$20 disregard is already factored.

⁵ Clients should be fully aware that medical expenses need only be incurred, and not necessarily paid, to meet a deductible/spenddown.

disregards. The G2S budget also factors ongoing medical expenses (which are applied toward a deductible), insurance premiums, and remedial services. Petitioner did not allege any relevant expenses.

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 \$375. RFT 240 (December 2013) p. 1.

Subtracting the PIL (\$375) and \$20 disregard from Petitioner's countable income results in a monthly deductible of \$973. MDHHS calculated the same deductible for Petitioner.⁶ Given the evidence, 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 determined Petitioner to be eligible for Medicaid subject to a monthly deductible of \$973 beginning October 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

⁶ Petitioner was eligible for Medicare beginning September 2020. Exhibit A, p. 13. Medicare recipients are not eligible for HMP benefits. BEM 137 (June 2020) p. 1. Presumably, Petitioner previously received MA benefits under the MAGI category of HMP which has a higher income limit than AD-Care.

Via-Electronic Mail :

DHHS

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Interested Parties

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