



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 19, 2024  
MOAHR Docket No.: 24-001256  
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 13, 2024. Petitioner testified and was represented. [REDACTED] [REDACTED] Petitioner's mother, testified and participated as Petitioner's authorized hearing representative (AHR). [REDACTED] [REDACTED] [REDACTED] of [REDACTED] [REDACTED] [REDACTED] testified on behalf of Petitioner. The Michigan Department of Health and Human Services (MDHHS) was represented by Oscar Brummitt, specialist.

### **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 an ongoing recipient of MA benefits.
2. On [REDACTED] [REDACTED] 2023, Petitioner's AHR submitted to MDHHS an application reporting that Petitioner was disabled, between 19-64 years of age, a Medicare recipient, not a caretaker to minor children, unmarried, and not pregnant.
3. As of December 2023, Petitioner received gross monthly Retirement, Survivors and Disability Insurance (RSDI) of \$1,522 under a claim# ending in "C".

4. On December 9, 2023, MDHHS determined Petitioner was eligible for the limited-coverage MA category of Plan First.
5. On an unspecified date, MDHHS determined that Petitioner was eligible for full Medicaid beginning January 2024, but subject to a monthly deductible of \$1,094.
6. On February 1, 2024, Petitioner requested a hearing to dispute the determination of MA benefits. Petitioner additionally disputed Food Assistance Program (FAP) benefits.
7. As of February 2024, MDHHS did not consider whether Petitioner was eligible for MA benefits under the category of Disabled Adult Child (DAC).
8. On March 13, 2024, during an administrative hearing, Petitioner's AHR withdrew the dispute concerning FAP benefits.

### **CONCLUSIONS OF LAW**

The FAP (formerly known as the Food Stamp program) is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. MDHHS administers the FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-119b, and Mich Admin Code, R 400.3001-.3011. FAP policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner's AHR requested a hearing, in part, to dispute FAP eligibility. Exhibit A, pp. 4-5. During the hearing, Petitioner's AHR stated that MDHHS favorably resolved Petitioner's dispute by approving FAP benefits, and a hearing was no longer needed to address the issue.<sup>1</sup> Based on the partial withdrawal of the hearing request, Petitioner's hearing request will be dismissed concerning FAP benefits.

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 also requested a hearing to dispute a determination of MA eligibility. Exhibit A, pp. 4-5. A Health Care Coverage Determination Notice dated December 9, 2023, stated that Petitioner was only eligible for the limited-coverage MA category of Plan First. Exhibit A, pp. 22-24. MDHHS also testified that Petitioner was eligible for full Medicaid beginning January 2024, through subject to a monthly deductible of \$1,094.

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<sup>1</sup> The testimony was consistent with a Notice of Case Action dated February 13, 2024, approving Petitioner for FAP benefits beginning [REDACTED] 2023. Exhibit A, pp. 35-39.

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.*

Petitioner's AHR applied for MA benefits on December 13, 2023, and reported that Petitioner was disabled and/or aged, at least 19 years of age, not pregnant, a Medicare recipient, and not a caretaker to minor children. <sup>2</sup> Exhibit A, pp. 9-16. 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. *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.

As of the disputed benefit month, 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 January 2024, Petitioner received gross monthly RSDI of \$1,571, an increase of \$49 from 2023. Generally, MDHHS counts the gross amount of RSDI in determining Medicaid eligibility.<sup>3</sup> BEM 503 (January 2023) p. 29. For 2024, Petitioner's countable income for AD-Care is \$1,571.

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 a January 2024 budget, Petitioner is entitled to a \$49 COLA credit.

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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.

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 and \$49 COLA results in countable 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>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. 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 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 MA if sufficient allowable medical expenses are incurred.<sup>6</sup> BEM 545 (July 2019) 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 income of \$1,571 is unchanged for G2S. The G2S budget allows a \$20 disregard for unearned income and various employment income disregards. The G2S budget also factors ongoing medical expenses (which are applied toward a deductible), insurance premiums, and remedial services. COLA is also considered.

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 \$408. RFT 240 (December 2013) p. 1.

Subtracting the PIL (\$408), COLA (\$49), and \$20 disregard from Petitioner's countable income results in a monthly deductible of \$1,094: the same deductible calculated by MDHHS.

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<sup>4</sup> <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>

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

<sup>6</sup> Clients should be aware that medical expenses need only be incurred, and not necessarily paid, to meet a deductible/spenddown.

The evidence suggests that MDHHS properly calculated Petitioner's MA eligibility. However, MDHHS did not consider Petitioner's potential eligibility under the less common MA category of DAC.

MA is available to a person receiving disabled adult children's (DAC) (also called Childhood Disability Beneficiaries' or CDBs'). BEM 158 (October 2014) p. 1. RSDI benefits under section 202(d) of the Social Security Act if he or she is all the following:

- (1) Is age 18 or older;
- (2) Received SSI;
- (3) Ceased to be eligible for SSI on or after July 1, 1987, because he/she became entitled to DAC RSDI benefits under section 202(d) of the Act or an increase in such RSDI benefits;
- (4) Is currently receiving DAC RSDI benefits under section 202(d) of the Act; and
- (5) Would be eligible for SSI without such RSDI benefits. *Id.*

Persons who are aged 18 or older, not a full-time student in elementary or secondary school and with a social security claim number containing the letter C may be a DAC.<sup>7</sup> It was not disputed that Petitioner was over the age of 18 and with a claim# ending in "C01". The evidence also did not suggest that Petitioner was a student. Under the circumstances, Petitioner may very well be eligible for MA under the category of DAC.

If an MDHHS specialist suspects that an individual meets DAC criteria, the specialist must request a screening for DAC eligibility from central office unless a determination has already been completed by central office. *Id.*, p. 2. Requests must be made through management or central specialized staff. *Id.*, p. 3. Requests by email are to be sent to DHS-DAC-Determination-Mailbox@michigan.gov and include the beneficiary's name, case number, SSN, SS claim number and any other information pertaining to the request. *Id.*

Despite evidence suggesting that Petitioner is a DAC, MDHHS acknowledged it did not request a screening for DAC eligibility. As a remedy, MDHHS will be ordered to request a DAC screening and a reprocessing of MA eligibility if Petitioner is eligible for MA benefits under DAC.<sup>8</sup>

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<sup>7</sup> The "C" may be followed by another letter or number (CA, CB, C1, etc.)

<sup>8</sup> Petitioner's AHR should be aware that if Petitioner is found to be a DAC, the MA budget would allow for a higher income limit. However, being a DAC does not result in automatic Medicaid eligibility.

**DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner's AHR withdrew her dispute concerning FAP benefits. Concerning FAP benefits, Petitioner's hearing request is **DISMISSED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly determined Petitioner to be ineligible for Medicaid under AD-Care beginning January 2024 and subject to a \$1,094 monthly deductible if not eligible for Medicaid under DAC. Concerning Medicaid under AD-Care, the actions of MDHHS are **AFFIRMED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly failed to consider Petitioner's Medicaid eligibility under DAC. 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 may be eligible for the category of DAC;
- (2) Request a DAC screening for Petitioner; and
- (3) Issue benefit supplements and notice, if any, in accordance with policy.

Concerning Medicaid under DAC, 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**

Yvonne Hill  
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**Interested Parties**

Oakland 2 County DHHS  
BSC4  
M. Schaefer  
EQAD  
MOAHR

**Via-First Class Mail :**

**Authorized Hearing Rep.**

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

**Petitioner**

[REDACTED]  
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[REDACTED], MI [REDACTED]