



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.: 24-001290  
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 unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Remy Williams, 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. On October 17, 2023, Petitioner was approved for ongoing Medicaid under Freedom-to-Work (FTW).
2. As of November 2023, Petitioner received gross monthly wages of \$ [REDACTED]
3. On December 26, 2023, MDHHS terminated Petitioner's Medicare Savings Program (MSP) eligibility beginning August 2023 due to excess income.
4. During 2023, Petitioner received \$1,518 (dropping cents) in Retirement, Survivors, Disability Insurance (RSDI).

5. Beginning January 2024, Petitioner received \$1,567 in gross monthly RSDI.
6. On [REDACTED] 2024, Petitioner applied for MA benefits.
7. On February 1, 2024, Petitioner requested a hearing to dispute MA eligibility.
8. As of February 2024, Petitioner's gross monthly wages were \$ [REDACTED]
9. On February 12, 2024, MDHHS denied MSP benefits to Petitioner due to excess income. MDHHS approved Petitioner for the limited-coverage MA category of Plan First for February 2024.
10. On February 13, 2024, MDHHS determined Petitioner was eligible for Medicaid subject to a monthly deductible of \$894 in February 2024. Also, MDHHS approved Petitioner for Medicaid under FTW subject to a monthly premium of \$67.73 beginning March 2023.

### **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 on February 1, 2024, to dispute a termination of Medicaid benefits. Exhibit A, pp. 4-6. Within the three months before Petitioner's hearing request date, the only known notice sent to Petitioner concerning MA termination was dated December 26, 2023, and stated that Petitioner's MSP eligibility ended August 2023 due to excess income.

MSP is an SSI-related Medicaid category. BEM 165 (January 2018) 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. BEM 165 (January 2018), p. 2. 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 eligibility, 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.*

It was not disputed that Petitioner was an unmarried individual. As an unmarried individual, Petitioner's MSP benefit group size is one.<sup>1</sup>

MDHHS presented documents from the Social Security Administration verifying that Petitioner's gross monthly RSDI was \$1,518 during 2023. Exhibit A, pp. 33-35. Generally, MDHHS counts the gross amount of RSDI in determining MA eligibility.<sup>2</sup> BEM 503 (April 2019), p. 28. For MSP, MDHHS allows a standard \$20 disregard for unearned income. Applying the credit results in countable unearned income of \$1,498.

In an MA budget for November 2023, MDHHS factored \$[REDACTED] in gross monthly income for Petitioner.<sup>3</sup> Exhibit A, p. 50. Petitioner acknowledged that \$[REDACTED] was a fair gross monthly income. For MA, MDHHS factors 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 \$65 + 50% credit for earned income. Applying the credit to Petitioner's wages results in \$340 in countable earned income. Adding the countable earned income to Petitioner's countable unearned income results in a total income of \$[REDACTED]

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 one person is \$1,661 (rounding up to nearest dollar).<sup>4</sup> RFT 242 (April 2023) p. 1. Petitioner's group's countable net income of \$1,838 exceeds the highest income limit for MSP eligibility.<sup>5</sup> Thus, MDHHS properly terminated Petitioner's eligibility for MSP benefits due to excess income.

Though the only apparent negative actions taken before Petitioner requested a hearing concerned MSP, MDHHS took negative actions concerning MA benefits shortly after Petitioner requested a hearing.<sup>6</sup> A Health Care Coverage Determination Notice dated February 12, 2024, approved Petitioner for the limited-coverage MA category of Plan First for February 2024. Exhibit A, pp. 45-48. A Health Care Coverage Determination Notice dated February 13, 2024, stated that Petitioner was eligible for unlimited-

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<sup>1</sup> See BEM 211 for determining the group size for MA benefits.

<sup>2</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>3</sup> In an MSP budget for March 2023, MDHHS factored gross monthly income of \$[REDACTED] Exhibit A, p.8.

<sup>4</sup> The income limit of \$1,661 factors MSP eligibility under ALMB. A client eligible for MA under FTW is not eligible for ALMB. BEM 174 (January 2020) p. 4. Petitioner's FTW eligibility would likely lower her MSP income limit.

<sup>5</sup> MDHHS policy lists an income limit of \$2,238.50 while noting that the \$20 disregard is already factored.

<sup>6</sup> The notices may stem from Petitioner's application dated January 28, 2024, requesting MA benefits. Exhibit A, pp. 12-18.

coverage Medicaid for February 2024, but subject to a monthly deductible of \$894. Exhibit A, pp. 39-42.

MDHHS presented an MA-FTW budget for February 2024. Exhibit A, p. 51. The budget factored \$1,498 in unearned income and \$1,051 and an income limit of \$3,037.50. The budget result was that Petitioner was eligible for FTW with no premium in February 2024. MDHHS failed to explain why a budget approved Petitioner for MA with no premium or deductible in February 2024 yet sent Petitioner notices approving Petitioner only for a limited-coverage category of MA and/or MA subject to a monthly deductible.

Given the evidence, MDHHS approved Petitioner for unlimited-coverage MA in February 2024. As a remedy, MDHHS will be ordered to process Petitioner for full-coverage MA for that month.

As mentioned above, MDHHS approved Petitioner for MA under FTW beginning March 2024. Petitioner disputed being eligible for MA benefits subject to a \$67.73 monthly premium.

FTW is an SSI-related Group 1 MA category. BEM 174 (January 2020) p. 1. FTW is available to a client with disabilities age 16 through 64 who has earned income. *Id.* There are no FTW premiums for individuals with MAGI (Modified Adjusted Gross Income) income less than 138 percent of the federal poverty level (FPL). *Id.*, p. 3. A premium of 2.5 percent of their income will be charged for an individual with MAGI income between 138 percent of the FPL and \$75,000 annually. *Id.* A premium of 100 percent of the average FTW participant cost will be assessed for an enrolled individual with MAGI income over \$75,000. *Id.*

Petitioner testified she should not have to pay \$67.73 for a medical premium, in part, because she pays more than \$1,000 for a car payment. A car payment is not a countable expense in determining any MDHHS program.

MDHHS presented a budget from March 2024 detailing how the FTW premium was calculated. Exhibit A, p. 52. MDHHS factored Petitioner's gross wages of \$661.94 dated January 12, 2024 and \$480.18 dated February 1, 2024. Adding the wages and applying a \$65 and 50% credit results in countable monthly wages of \$538.50. Adding the wages to Petitioner's RSDI of \$1,498 results in a total income of \$

The 2024 federal poverty level for a 1-person group residing in Michigan is \$15,060.<sup>7</sup> Multiplying the FPL by 1.38 results in an income limit of \$20,782.80 (\$1,731.90). Petitioner's group's income exceeded the income limit for no premium; thus, a 2.5% premium is required for MA eligibility under FTW. Multiplying Petitioner's modified adjusted gross income, which included monthly RSDI totaling \$1,567 and monthly wages of \$1,142, by 2.5% results in a premium of \$672.73: the same premium

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<sup>7</sup> <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>

calculated by MDHHS. The evidence established that MDHHS properly calculated Petitioner's FTW premium.

### **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 August 2023. MDHHS also properly calculated Petitioner's FTW eligibility beginning March 2023. Concerning MSP and FTW, the actions taken by MDHHS are **AFFIRMED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly determined Spouse's MA eligibility for February 2024. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Issue unlimited-coverage MA benefits to Petitioner for February 2024 subject to the finding that MDHHS calculated Petitioner was eligible for unlimited coverage MA benefits with no premium; and
- (2) Issue supplements and notice, if any, in accordance with policy.

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

CG/nr



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**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**  
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**Interested Parties**  
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**Via-First Class Mail :**

**Petitioner**

[REDACTED]  
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[REDACTED], MI [REDACTED]