



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: March 26, 2024
MOAHR Docket No.: 24-001292
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 Shana Bush, lead 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 4, 2023, Petitioner timely returned MA redetermination documents to MDHHS and reported being disabled, at least 19 years of age, a Medicare recipient, not a caretaker to minor children, unmarried, and not pregnant.
2. As of December 2023, Petitioner was an ongoing recipient of full-coverage MA benefits with no deductible.
3. As of December 2023, Petitioner received gross monthly Retirement, Survivors and Disability Insurance (RSDI) of \$1,193 which increased by \$38 to a total of \$1,231 beginning January 2024.

4. On December 4, 2023, MDHHS determined Petitioner was eligible beginning January 2024 for the limited coverage MA category of Plan First and eligible for full Medicaid though subject to a \$948 monthly deductible.
5. As of February 2024, Petitioner was eligible for MA subject to a \$915 monthly deductible.
6. On February 5, 2024, Petitioner 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 requested a hearing to dispute a determination of MA eligibility. Exhibit A, p. 3. A Health Care Coverage Determination Notice dated December 4, 2023, stated that Petitioner was eligible for the limited coverage MA category of Plan First beginning January 2024.¹ The notice also stated that Petitioner was eligible for full Medicaid, but subject to a monthly deductible of \$948. Exhibit A, pp. 17-20. As of February 2024, MDHHS lowered Petitioner's deductible to \$915. Exhibit A, p. 16.

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 submitted redetermination documents to MDHHS on October 4, 2023 and reported being disabled and/or aged, at least 19 years of age, not pregnant, a Medicare

¹ Plan First Medicaid (MA) is a MAGI-related limited coverage Medicaid group available to any United States citizen or individual with an immigration status entitling them to full Medicaid coverage residing in Michigan. BEM 124 (July 2023) p. 1.

recipient, and not a caretaker to minor children.² Exhibit A, pp. 5-12. Given the circumstances, Petitioner is ineligible for all full Medicaid 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.

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 \$1,231. Generally, MDHHS counts the gross amount of RSDI in determining Medicaid eligibility.³ BEM 503 (January 2023) p. 29. Petitioner also received ongoing monthly child support of \$150. Exhibit A, p. 14. It was not disputed that the child support was for an adult child that did not reside with Petitioner. For MA benefits, arrearage payments received and retained by a parent for an adult child, or a child not living in the home, are considered unearned income for the parent. BEM 503 (January 2023) p. 6. Any amount of the payment which is passed through to the adult child is NOT income to the parent. *Id.* There was no evidence that Petitioner passed the child support income to her adult child.⁴ Thus, Petitioner's child support income is countable.

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 2023) p. 29. For January 2024, Petitioner is entitled to a \$38 COLA credit.

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 \$38 COLA from Petitioner's RSDI and child support results in countable income of \$1,343.

Net income for AD-Care cannot exceed 100% of the federal poverty level. BEM 163 (July 2017) p. 2. In 2024, the annual federal poverty level for a 1-person group in

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

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 Spoiler alert: the child support income received by Petitioner appears to be the difference between AD-Care eligibility and non-eligibility. Thus, if Petitioner forwarded the \$150 in support income to her adult child, she may be eligible for MA under AD-Care.

Michigan is \$15,060.⁵ Dividing the annual amount by 12 results in a monthly income limit of \$1,255. 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.

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 RSDI of \$1,231 and \$150 in child support totaling \$1,381 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 deductions were the standard disregard of \$20 and \$38 for COLA.

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), \$20 unearned income disregard, and \$38 COLA from Petitioner's countable income of \$1,381 results in a monthly deductible of \$915; MDHHS calculated the same deductible. Exhibit A, p. 16.

Petitioner testified that she cannot afford a monthly deductible of \$915 when her rent is \$800. Petitioner also testified that she needs full Medicaid for transportation to appointments. Petitioner's testimony was sincere but has no impact in income eligibility for Medicaid.⁶ Given the evidence, MDHHS properly determined Petitioner's MA eligibility.

⁵ <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>

⁶ As discussed above, Petitioner may be eligible for full Medicaid under AD-Care if she passes her child support income to her adult child and reports this to MDHHS.

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 \$915 monthly deductible beginning February 2024. 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 :

Department Representative
Office of Child Support (OCS)-MDHHS
201 N Washington Square
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