



STATE OF MICHIGAN

GRETCHEN WHITMER  
GOVERNOR

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES  
SUZANNE SONNEBORN  
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA  
DIRECTOR



Date Mailed: April 2, 2024  
MOAHR Docket No.: 24-001507  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun**

### **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 telephone hearing was held on March 21, 2024, from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Danielle Moton, Assistance Payments Worker.

### **ISSUE**

Did the Department properly determine Petitioner's eligibility for Medical Assistance (MA) benefits?

### **FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner was an ongoing recipient of MA benefits Group 2 Aged, Blind, Disabled (G2S) subject to a monthly deductible of \$1,285.
2. Petitioner was previously a recipient of Medicare Savings Program (MSP) benefits under the Additional Low-Income Beneficiaries (ALMB) category.
3. Under the Families First Coronavirus Response Act (FFCRA), PL 116-127, Michigan received additional federal MA funding during the COVID-19 pandemic health emergency (PHE).
4. As a condition for receiving the increased funding, § 6008 of the FFCRA required that the Department provide continuous MA coverage for individuals who were enrolled in MA on or after March 18, 2020, even if those individuals became

ineligible for MA for reasons other than death, residing outside of Michigan, or requesting that MA be discontinued.

5. The MA continuous coverage requirement under § 6008 of the FFCRA was not indefinite.
6. The Consolidated Appropriations Act, 2023 (CAA, 2023), PL 117-328, terminated the continuous coverage requirement effective March 31, 2023.
7. Beginning April 1, 2023, the CAA, 2023 required the Department to reevaluate almost all MA recipients' eligibility for ongoing MA.
8. In connection with a redetermination, Petitioner's eligibility for MA benefits was reviewed.
9. On or around January 8, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice (Notice) advising her that effective November 1, 2023, her MSP case would be closed because her income exceeded the income limit for the program. The Notice also advised Petitioner that she continued to be eligible for MA under the G2S and that effective January 1, 2024, her deductible was \$1,110. (Exhibit A, pp. 11-16)
10. On or around January 31, 2024, Petitioner requested a hearing disputing the Department's actions with respect to her MA benefits.

### **CONCLUSIONS OF LAW**

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The Medical Assistance (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. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

MA is available (i) under SSI-related categories to individuals who are aged (65 or older), blind or disabled, (ii) to individuals who are under age 19, parents or caretakers of children, or pregnant or recently pregnant women, (iii) to individuals who meet the eligibility criteria for Healthy Michigan Plan (HMP) coverage, and (iv) to individuals who meet the eligibility criteria for Plan First Medicaid (PF-MA) coverage. 42 CFR 435.911; 42 CFR 435.100 to 435.172; BEM 105 (October 2023), p. 1; BEM 137 (June 2020), p.

1; BEM 124 (July 2023), p. 1. Under federal law, an individual eligible under more than one MA category must have eligibility determined for the category selected and is entitled to the most beneficial coverage available, which is the one that results in eligibility and the least amount of excess income or the lowest cost share. BEM 105, p. 2; 42 CFR 435.404.

In this case, Petitioner disputed the Department's determination that she was eligible for MA under a deductible based program and the Department's determination that she had excess income for the MSP.

Because Petitioner is enrolled in Medicare, the Department properly concluded that Petitioner was eligible for SSI-related MA, which is MA for individuals who are blind, disabled or over age 65. BEM 105, p. 1. Individuals are eligible for Group 1 coverage, with no deductible, if their income falls below the income limit, and eligible for Group 2 coverage, with a deductible that must be satisfied before MA is activated, when their income exceeds the income limit. BEM 105, p. 1. Ad-Care coverage is a SSI-related Group 1 MA category which must be considered before determining Group 2 MA eligibility. BEM 163 (July 2017), p. 1. Eligibility for Ad-Care is based on the client meeting nonfinancial and financial eligibility criteria. BEM 163, pp. 1-2. The eligibility requirements for Group 2 MA and Group 1 MA Ad-Care are the same, other than income. BEM 166 (April 2017), pp. 1-2.

Income eligibility for the Ad-Care program is dependent on MA fiscal group size and net income which cannot exceed the income limit in RFT 242. BEM 163, p. 2. Petitioner has a MA fiscal group of one. BEM 211 (October 2023), pp. 5-8. Effective April 1, 2023, an MA fiscal group with one member is income-eligible for full-coverage MA under the Ad-Care program if the group's net income is at or below \$1,235, which is 100 percent of the Federal Poverty Level, plus the \$20 disregard. RFT 242 (April 2023), p. 1. Thus, the income limit for Ad-Care eligibility is \$1,215.

The Department is to determine countable income according to SSI-related MA policies in BEM 500 and 530 *except* as explained in the countable RSDI section of BEM 163. The Department will also apply the deductions in BEM 540 (for children) or 541 (for adults) to countable income to determine net income. BEM 163, p. 2.

The Department asserted that Petitioner had excess income for the Ad-Care program. The Department representative testified that it considered Petitioner's unearned income which totaled \$ [REDACTED] and was based on her receipt of gross monthly RSDI/Social Security benefits. The Department also properly considered the unearned income general exclusion of \$20 and for the months of January, February, and March, the Department considers a COLA deduction which in this case was \$54. BEM 503 (January 2023), pp. 29-30. Therefore, the Department determined that Petitioner had countable income of \$ [REDACTED]

After further review of Department policy and based on the testimony provided at the hearing, because Petitioner's countable income of \$ [REDACTED] exceeds the net income limit

for the Ad-Care program, the Department acted in accordance with Department policy when it determined that Petitioner was ineligible for full coverage MA benefits under the Ad-Care program without a deductible and determined that she would be eligible for MA under the Group 2 Aged Blind Disabled (G2S) program with a monthly deductible.

Additionally, 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. Individuals are eligible for Group 2 MA coverage when net income (countable income minus allowable income deductions) does not exceed the applicable Group 2 MA protected income levels (PIL), which is based on shelter area and fiscal group size. BEM 105, pp. 1-2; BEM 166, pp. 1-2; BEM 544 (January 2020), p. 1; RFT 240 (December 2013), p. 1. The PIL is a set allowance for non-medical need items such as shelter, food and incidental expenses. BEM 544, p. 1. The monthly PIL for an MA group of one living in Wayne County is \$375 per month. RFT 200 (April 2017), pp. 1-2; RFT 240, p. 1. Thus, if Petitioner's net monthly income is in excess of the \$375, she may become eligible for assistance under the deductible program, with the deductible being equal to the amount that her monthly income exceeds \$375. BEM 545, p. 1. To meet a deductible, a MA client must report and verify allowable medical expenses (defined in Exhibit I) that equal or exceed the deductible amount for the calendar month being tested. The group must report expenses by the last day of the third month following the month in which client wants MA coverage. BEM 545, p. 11. The Department is to add periods of MA coverage each time the group meets its deductible. BEM 545, p.11.

The Department determined that effective January 1, 2024, Petitioner was eligible for MA under the G2S category with a monthly deductible of \$1,110. The Department produced an SSI-Related Medicaid Income Budget to show how it calculated the deductible. (Exhibit A, p.10) As referenced above, the Department properly considered gross unearned income in the amount of \$ [REDACTED] based on Petitioner's receipt of RSDI/Social Security. The Department also properly applied a \$20 unearned income exclusion to determine that Petitioner had net unearned income for MA purposes of \$ [REDACTED]. The Department applied an insurance premium deduction of \$174.70, which was said to include Medicare premiums, as Petitioner was no longer enrolled in the MSP. The Department also properly considered the \$54 COLA exclusion as a deduction for January, February, and March 2024. There was no evidence presented that Petitioner submitted any verification of ongoing medical expenses and no evidence that Petitioner was entitled to any additional deductions to income such as guardianship/conservator expenses or remedial services.

Upon review, the Department properly considered Petitioner's unearned income and took into consideration the appropriate deductions to income. Based on the evidence presented because Petitioner's countable income of \$ [REDACTED] for MA purposes exceeds the monthly protected income level of \$375 by \$1,110, the Department properly calculated Petitioner's monthly \$1,110 MA deductible in accordance with Department policy. Therefore, based on the information relied upon by the Department,

the Department properly determined that effective January 1, 2024, Petitioner was eligible for MA under the G2S program with a monthly deductible of \$1,110.

The Department also determined that Petitioner was not eligible for MSP benefits under the ALMB category.

MSP are SSI-related MA categories. There are three MSP categories: Qualified Medicare Beneficiaries (QMB); Specified Low-Income Medicare Beneficiaries (SLMB); and Additional Low-Income Beneficiaries (ALMB). BEM 165 (October 2022), p. 1. QMB is a full coverage MSP that pays Medicare premiums (Medicare Part B premiums and Part A premiums for those few people who have them), Medicare coinsurances, and Medicare deductibles. SLMB pays Medicare Part B premiums and ALMB pays Medicare Part B premiums provided funding is available. BEM 165, pp. 1-2.

Income is the major determiner of category. The monthly income limits for Petitioner's fiscal group size of one are identified in RFT 242 (April 2023). For QMB eligibility, net income cannot exceed \$1,235, which is 100% of the poverty level, plus the \$20 disregard for RSDI income. For SLMB eligibility, net income is between \$1,235.01 and \$1,478, which is over 100% but not over 120% of the poverty level, plus the \$20 disregard for RSDI income. For ALMB eligibility, net income must be between \$1,478.01 and \$1,660.25, which is over 120% but not over 135% of the poverty level, plus the \$20 disregard for RSDI income. RFT 242, p.1; BEM 165, pp. 1-2, 8-10. Thus, to be eligible for MSP benefits, Petitioner's income cannot exceed \$1,640.25. The Department is to determine countable income according to the SSI-related MA policies in BEM 500, 501, 502, 503, 504, and 530, except as otherwise explained in BEM 165. RFT 242, pp1-2; BEM 165, pp. 8-10. The Department will also apply the deductions in BEM 540 (for children) and BEM 541 (for adults) to countable income to determine net income. BEM 165, pp. 8-10.

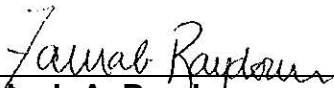
At the hearing, the Department representative testified that based on Petitioner's net income she was determined ineligible for MSP benefits under all MSP categories. The Department presented an SSI Related Medicaid (Adults) Income Budget for the ALMB category, as that program has the highest income limit. (Exhibit A, p. 9). As discussed above, Petitioner receives gross monthly RSDI or Social Security benefits in the amount of \$ [REDACTED]. There was no evidence that Petitioner was eligible for any additional deductions to income such as guardianship/conservator expenses for the month of December 2023, which is the month being tested. When the \$20 unearned income general exclusion is applied, as was the \$54 COLA exclusion to determine that Petitioner's countable income for MSP purposes was \$ [REDACTED]. Upon review, Petitioner's net income of \$ [REDACTED] is in excess of the \$1,640.25 ALMB income limit for her one-person fiscal group size.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it determined that Petitioner had excess income and was ineligible for MSP.

**DECISION AND ORDER**

Accordingly, the Department's decision is **AFFIRMED**.

ZB/ml

  
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**Zainab A. Baydoun**  
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:**

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