



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: May 3, 2024  
MOAHR Docket No.: 24-001973  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: L. Alisyn Crawford**

**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 April 3, 2024. Petitioner was present at the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Heather Oleszkowicz, Assistance Payments Worker.

**ISSUE**

Did the Department properly determine Petitioner's Medical Assistance (MA) eligibility?  
Did the Department properly deny Petitioner's request for Medicare Savings Program (MSP) 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 coverage under the AD-Care program.
2. Petitioner applied for MSP benefits.
3. At redetermination, Petitioner (age [REDACTED]) reported that she was married to (Husband) (age [REDACTED]), and they live together. Exhibit A, p. 8.
4. Petitioner receives unearned income in the form of Retirement, Survivors, and Disability Insurance (RSDI), in the amount of \$[REDACTED] monthly and is enrolled in Medicare.

5. Husband receives unearned income in the form of RSDI in the amount of \$ [REDACTED] monthly and \$ [REDACTED] monthly from a pension.
6. On January 10, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice (HCCDN) informing her that effective February 1, 2024, she was approved for MA coverage subject to a monthly deductible of \$3,247. Exhibit A, pp. 21-27.
7. On January 24, 2024, the Department sent Petitioner a HCCDN informing her that her MSP application was denied due to excess income. Exhibit A, pp. 28-30.
8. On February 20, 2024, Petitioner submitted a request for hearing disputing the Department's action regarding her MA and MSP coverage. Exhibit A, pp. 4-6.

### **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.

Upon reviewing Petitioner's eligibility criteria at redetermination, the Department concluded that Petitioner was no longer eligible for MA under the full coverage Ad-Care category and that she was now eligible for MA coverage under the Group 2 Aged, Blind, and Disabled (G2S) program with a monthly deductible of \$3,247, due to excess income. Additionally, the Department denied Petitioner's request for MSP benefits due to excess income. Petitioner disputes the G2S coverage and the MSP denial.

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 (January 2024), p. 1; BEM 137 (January 2024), 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 (January 2021), p. 2; 42 CFR 435.404.

Because Petitioner was a Medicare recipient, disabled, and over age 65, and there was no evidence that Petitioner was the parent or caretaker of a minor child, Petitioner was eligible for MA only under an SSI-related category. In determining the SSI-related MA category Petitioner is eligible for, the Department must determine Petitioner's MA fiscal group size and net income. As a married individual, Petitioner has fiscal group size for SSI-related MA purposes of two. BEM 211 (October 2023), p. 8. The fiscal group's net income for MA purposes is the sum of (i) Petitioner's and Husband's unearned RSDI income of \$1,160.70 and \$2,130.70, and (ii) Husband's pension payments of \$860.00. Unearned income is reduced by a \$20 disregard, which results in net income of \$4,131.40 per month. BEM 541 (January 2024), p. 3.

The income limit for AD-Care with a fiscal group size of two is \$1,663.50; therefore, based on Petitioner's net income of \$ [REDACTED] the Department properly determined that she is not eligible for MA coverage under the AD-Care program, due to excess income. BEM 163 (July 2017), p. 2; RFT 242 (April 2023), p. 1; <https://aspe.hhs.gov/poverty-guidelines>. However, clients who are ineligible for full-coverage MA coverage because of excess income may still be eligible for SSI-related MA under the G2S program, which provides for MA coverage with a monthly deductible. BEM 105, p. 1. The deductible is in the amount that a client's net income (less any allowable needs deductions) exceeds the applicable Group 2 MA protected income levels (PIL). The PIL is a set amount identified in policy based on the client's MA fiscal group size and county of residence. BEM 105, p. 1; BEM 166 (April 2017), pp. 1-2; BEM 544 (January 2020), p. 1; RFT 240 (December 2013), p. 1; RFT 200 (April 2017), p. 2. The monthly PIL for a client in Petitioner's position, with an MA fiscal group size of two living in Oakland County, is \$541.00 per month. RFT 200, p. 2; RFT 240, p. 1.

Thus, Petitioner is eligible for MA assistance under the deductible program, with the deductible equal to the amount of the monthly net income, less allowable deductions, exceeding \$541.00 per month. BEM 545 (July 2022), pp. 2-3.

The Department presented an SSI-related MA budget showing the calculation of Petitioner's deductible that was reviewed on the record for a benefit period starting March 1, 2024. (Exhibit A, p. 31). In determining the monthly deductible, net income is reduced by health insurance premiums paid by the MA group and remedial service allowances for individuals in adult foster care or homes for the aged. BEM 544, pp. 1-3. The Department also gives cost of living adjustments (COLA) (for January through March only).

In this case, Petitioner does not reside in an adult foster care home or home for the aged and, as such, is not eligible for any remedial service allowances. The following health insurance premiums were paid by Petitioner and Husband: \$319.40 for Part B Premiums. Petitioner's allowable needs deduction for health insurance and remedial services totaled \$319.40.

Petitioner's net income of \$ [REDACTED] reduced by allowable needs deductions of \$319.40, by the \$102.00 COLA exclusion, and by the \$541.00 PIL results in a deductible of \$3,168. Therefore, the Department properly determined that Petitioner is eligible for MA benefits under G2S program subject to a monthly deductible of \$3,168.

### **MSP**

Petitioner also disputed the denial of MSP coverage. There are three categories of MSP benefits including the Qualified Medicare Beneficiary (QMB), the Special Low Income Medicare Beneficiary (SLMB), and the Additional Low Income Medicare Beneficiary (ALMB). QMB pays Medicare premiums, coinsurances, and deductibles. SLMB pays Medicare Part B premiums. ALMB pays Medicare Part B premiums provided funding is available. BEM 165 (October 2022), pp. 2-4.

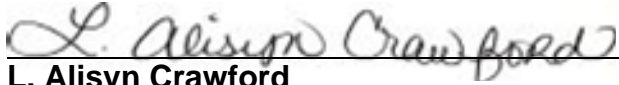
Like AD-Care, income eligibility for MSP exists when a client's income is within the limits established by policy. BEM 165, p. 8. With a fiscal group size of two, the income limits for MSP are as follows: (i) QMB - \$1,663.50; (ii) SLMB - \$1,663.51 to \$1,992.00; and (iii) ALMB - \$1,992.01 to \$2,238.50. RFT 242 (April 2023), p. 1. Therefore, based on the MSP income limits and Petitioner's net income of \$4,131, the Department properly denied MSP benefits due to excess income.

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 is eligible for MA benefits under G2S program with a monthly deductible and when it denied Petitioner's Medicare Savings Program application due to excess income.

### **DECISION AND ORDER**

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

LC/ml

  
**L. Alisyn Crawford**  
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:**

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**Interested Parties**

BSC4  
M Schaefer  
EQAD  
MOAHR

**Via First Class Mail:**

**Petitioner**

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