



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

MARLON I. BROWN
DIRECTOR

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Date Mailed: May 3, 2024
MOAHR Docket No.: 24-002073
Agency No.: ██████████
Petitioner: ██████ ██████

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 4, 2024, from Lansing, Michigan. ██████ ██████ the Petitioner, appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Brad Reno, Eligibility Specialist and Hearing Facilitator.

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-24.

ISSUE

Did the Department properly determine Petitioner's eligibility for Medical Assistance (MA) and the Medicare Savings Program (MSP)?

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 receiving full coverage MA benefits under the Freedom to Work (MA-FTW) category.
2. On December █ 2023, Petitioner submitted a redetermination for MA and indicated changes with income from self-employment and RSDI benefits. (Exhibit A, pp. 7-9)
3. On January █ 2024, a Verification Checklist was issued to Petitioner requesting verifications of income, assets, and name change with a due date of January 29, 2024. It was noted that it was unclear whether Petitioner was still doing self-

employment and if it had ended, a written statement was needed. (Exhibit A, pp. 10-11)

4. On February █ 2024, a Health Care Coverage Determination Notice was issued to Petitioner stating Petitioner was approved for limited coverage MA under the Plan First category and denied for ongoing MSP benefits effective March 1, 2024 because verification of self-employment was not received. (Exhibit A, pp. 12-16)
5. On February █ 2024, Petitioner filed a hearing request contesting the Department's determination. (Exhibit A, p. 6)
6. On February █ 2024 the case was reviewed and it was found that the required proof of self-employment was received based on Petitioner's credible statement that she was no longer able to work due to her health conditions. MA eligibility was re-determined, but Petitioner was no longer eligible for coverage under the MA-FTW category because self-employment ended. (Exhibit A, pp. 3 and 17-20)
7. On February █ 2024, a Health Care Coverage Determination Notice was issued to Petitioner stating MA was approved with a monthly deductible of \$█ effective March 1, 2024 and a monthly deductible of \$█ effective April 1, 2024, and Petitioner was approved for the MSP under the Specified Low-Income Medicare Beneficiary (SLMB) category effective March 1, 2024. (Exhibit A, pp. 21-24)

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.

Plan First 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. The fiscal group's net income cannot exceed 195 percent of the federal poverty level. BEM 124, July 1, 2023, p. 1.

The Medicaid program comprise several sub-programs or categories. To receive MA under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. BEM 105, January 1, 2024, p. 1.

In general, the terms Group 1 and Group 2 relate to financial eligibility factors. For Group 1, net income (countable income minus allowable income deductions) must be at or below a certain income limit for eligibility to exist. The income limit, which varies by category, is for nonmedical needs such as food and shelter. Medical expenses are not used when determining eligibility for MAGI-related and SSI-related Group 1 categories. For Group 2, eligibility is possible even when net income exceeds the income limit. This is because incurred medical expenses are used when determining eligibility for Group 2 categories. Group 2 categories are considered a limited benefit as a deductible is possible. BEM 105, January 1, 2024, p. 1.

The Department counts the gross benefit amount of Social Security Administration (SSA) issued RSDI benefits as unearned income when determining eligibility. BEM 503, January 1, 2023, p. 29. The Department disregards the annual cost of living increase for RSDI for January, February, and March. BEM 503, January 1, 2023, p. 30.

The Department utilizes a Protected Income Level (PIL) in determining MA eligibility. The PIL is a set allowance for non-medical need items such as shelter, food and incidental expenses. BEM 544, January 1, 2020, p. 1. Genesee County is part of Shelter Area VI, which has a PIL of \$408.00 for a group size of one. RFT 200, April 1, 2017, p. 3 and RFT 240, December 1, 2013, p. 1.

For SSI related adults, the only deductions allowed to countable income are for court-ordered child support, blind/impairment related work expenses, allocation to non-SSI related children, a \$20.00 disregard, an earned income disregard of \$65.00 plus ½ of the remaining earnings, and Guardianship/Conservator expenses. BEM 541, January 1, 2024, pp. 1-7.

Income eligibility exists for all or part of the month tested when there is no excess income or the medical group's allowable medical expenses equal or exceed the fiscal group's excess income. BEM 545, July 1, 2022, p. 1-3.

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. Each calendar month is a separate deductible period. The fiscal group's monthly excess income is called a deductible amount. Meeting a deductible means reporting and verifying allowable medical expenses that equal or exceed the deductible amount for the calendar month tested. BEM 545, July 1, 2022, p. 10-12.

There are three categories that make up the MSP: Qualified Medicare Beneficiaries (QMB); Specified Low-Income Medicare Beneficiaries (SLMB); and Additional Low-Income Medicare Beneficiaries (ALMB). Income is the major determiner of category. For QMB net income cannot exceed 100% of poverty. For SLMB net income is over 100% of

poverty, but not over 120% of poverty. For ALMB net income is over 120% of poverty, but not over 135% of poverty. BEM 165, October 1, 2022, p. 1.

RFT 242 addresses the income limits for aged or disabled MA (MA-AD) and the MSP categories. Effective April 1, 2023, for a group size of one the income limit for MA-AD and QMB is \$1,235.00, and for SLMB the income limit is \$1,235.01 to \$1,478.00. It is noted that the income limits for MA-AD and QMB are 100 percent of the FPL. RFT 242, April 1, 2023, p. 1.

MA FTW is an SSI-related Group 1 MA category. FTW is available to a client with disabilities age 16 through 64 who has earned income. Eligibility begins the first day of the calendar month in which all eligibility criteria are met. All eligibility factors must be met in the calendar month being tested. BEM 174, January 1, 2020, p. 1.

The non-financial eligibility factors include employment:

2. The client must be employed. FTW coverage is retained when a participant is relocated due to employment.

Note: A client may have temporary breaks in employment up to 24 months if the break is the result of an involuntary layoff or is determined to be medically necessary and retain FTW eligibility. Use client statements to verify.

BEM 174, January 1, 2020, p. 1.
(Underline added by ALJ)

In this case, it appears that the Department properly re-determined Petitioner's eligibility when Petitioner's credible written statement that she was no longer able to work due to her health conditions was considered. (Exhibit A, pp. 3 and 17-24). Petitioner testified that she is not able to work properly due to her health conditions. (Petitioner Testimony). Petitioner was no longer eligible for MA under the FTW category because she was no longer working.

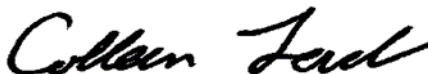
Petitioner's income from RSDI benefits was \$[REDACTED]. Accordingly, Petitioner exceeded the \$1,235.00 income limit or full coverage MA. After the \$20.00 disregard and PIL of \$[REDACTED] are considered, Petitioner has a monthly deductible of \$[REDACTED] for March. There was no evidence that Petitioner had medical insurance premiums or any of the other allowable deductions (court-ordered child support, blind/impairment related work expenses, allocation to non-SSI related children, an earned income disregard of \$65.00 plus ½ of the remaining earnings, or Guardianship/Conservator expenses). The Department also excluded \$40.00 for the annual cost of living increase for RSDI because the Department was reviewing eligibility effective in the month of March. (Exhibit A, p. 19). The deductible increased to \$[REDACTED] effective April 1, 2024 because the annual cost of living increase for RSDI could no longer be excluded. (Exhibit A, p. 20). Further, Petitioner was found eligible for the MSP under the SLMB category. (Exhibit A, p. 21)

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 re-determined Petitioner's eligibility when Petitioner's credible written statement that she was no longer able to work due to her health conditions was considered.

DECISION AND ORDER

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

CL/dm



Colleen Lack
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
Janice Collins
Genesee County DHHS Union St
District Office
**MDHHS-Genesee-UnionSt-
Hearings@michigan.gov**

SchaeferM

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MOAHR

Via-First Class Mail :

Petitioner

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