



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: April 25, 2024  
MOAHR Docket No.: 24-002296  
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 April 17, 2024, from Detroit, Michigan. Petitioner appeared for the hearing with [REDACTED] Case Manager with [REDACTED] and [REDACTED] Program Manager with [REDACTED]. The Department of Health and Human Services (Department) was represented by Lori Turner, Eligibility Specialist.

### **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. The Department asserted that Petitioner had been receiving MA under the Freedom to Work (FTW) category.
2. In connection with a redetermination, Petitioner's eligibility to receive MA was reviewed.
3. Effective December 1, 2023, Petitioner was approved for MA under the Group 2 Aged, Blind, Disabled (G2S) subject to a monthly deductible of \$999. The deductible was reduced to \$826 effective January 1, 2024.

4. Petitioner receives gross monthly RSDI/Social Security benefits of [REDACTED]. Petitioner is also employed and receives earned income biweekly. Petitioner was paid [REDACTED] on December 15, 2023, [REDACTED] on December 28, 2023, and [REDACTED] on January 15, 2024. Petitioner is responsible for her own Medicare premiums of \$174.90 monthly. Petitioner's fiscal group size is one.
5. On or around February 29, 2024, Petitioner requested a hearing disputing the Department's actions with respect to her MA eligibility.

### **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.

In this case, Petitioner disputed the Department's determination that she was eligible for MA under the G2S category with a monthly deductible.

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.

Because Petitioner is disabled, receives RSDI and is enrolled in Medicare, the Department properly concluded that Petitioner was eligible for SSI-related MA. 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. Group 2

categories are considered a limited benefit because a deductible is possible. BEM 105, p. 1.

FTW is an SSI-related group 1 MA category available to clients with disabilities age 16-64 who also have earned income. As a condition of eligibility, the client must be employed. Initial income eligibility for FTW exists when the client's countable income does not exceed 250% of the federal poverty level (FPL) and ongoing eligibility exists when the client's unearned income does not exceed 250% of the FPL. There are no premiums for individuals with MAGI (Modified Adjusted Gross Income) less than 138% of the federal poverty level (FPL). A premium of 2.5 percent of the client's income will be charged for an individual with MAGI income between 138% of the FPL and \$75,000 annually. BEM 174 (January 2020), p. 1-3.

At the hearing, the Department representative testified that Petitioner had previously been approved for MA under the FTW and that in connection with a redetermination, Petitioner's eligibility to continue receiving MA was reviewed. The Department representative initially testified that Petitioner was ineligible to MA under the FTW because she failed to submit verification of assets in connection with the redetermination and as a result, her MA coverage was transferred to the G2S program. However, the Department's testimony was not supported by any documentary evidence presented, nor is it supported by Department policy, as asset eligibility for both the FTW and G2S categories is required. Thus, it was unclear how Petitioner could be found eligible for G2S if verification of assets was not returned. The Department representative provided no valid explanation for its determination that Petitioner was ineligible for FTW MA, as the income identified during the hearing was within the income limits for FTW eligibility. Additionally, the Department did not establish that Petitioner's approval for MA under the G2S was more beneficial to her than her prior eligibility for MA under the FTW. See BEM 105. The Department acknowledged that at the time of the redetermination, there was no significant change in Petitioner's income or circumstances.

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 did not act in accordance with Department policy when it determined Petitioner's MA eligibility effective December 1, 2023.

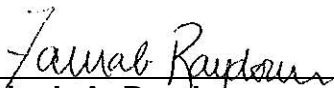
**DECISION AND ORDER**

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

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Redetermine Petitioner's MA eligibility under the FTW and the most beneficial category for December 1, 2023, ongoing;
2. If eligible, provide MA coverage to Petitioner for any MA benefits that she was entitled to receive but did not, if any, from December 1, 2023, ongoing, and
3. Notify Petitioner in writing of its decision.

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**

Tara Roland 82-17  
Wayne-Greenfield/Joy-DHHS  
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**Interested Parties**

BSC4  
M Schaefer  
EQAD

**Via First Class Mail:**

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] MI [REDACTED]