



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 21, 2024  
MOAHR Docket No.: 24-003660  
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 line on May 6, 2024. Petitioner did not participate. [REDACTED] [REDACTED] Petitioner's son and guardian, testified and participated as Petitioner's authorized hearing representative (AHR). The Michigan Department of Health and Human Services (MDHHS) was represented by Ahmed Elahrag, supervisor, and Cynthia Powell, specialist.

### **ISSUE**

The issue is whether MDHHS properly determined Petitioner's Medicaid (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 August 1, 2023, MDHHS received Petitioner's redetermination documents which reported no other persons in the household. It was also reported that Petitioner was disabled, a recipient of Medicare, not pregnant, and not a caretaker to minor children.
2. On October 19, 2023, MDHHS determined that Petitioner was eligible for the limited-coverage MA category of Plan First beginning November 2023.

3. On an unspecified date, MDHHS determined that Petitioner was eligible for full-coverage MA subject to a \$1,474 monthly deductible.
4. As of March 2024, Petitioner received ongoing gross monthly Retirement, Survivors and Disability Insurance (RSDI) of \$2,012.
5. On March 21, 2024, Petitioner's AHR requested a hearing to dispute the termination of Petitioner's Medicaid eligibility.
6. On March 26, 2024, MDHHS determined Petitioner was ineligible for Medicare Savings Program (MSP) benefits beginning June 2024.

### **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, in part, to dispute a termination of unlimited coverage Medicaid benefits. Exhibit A, p. 3. A Health Care Coverage Determination Notice (HCCDN) dated October 19, 2023, stated that Petitioner was eligible for Medicaid under the limited-coverage MA category of Plan First beginning November 2023. Exhibit A, pp. 11-14. MDHHS also credibly testified that Petitioner was additionally eligible for Medicaid, but subject to a monthly deductible of \$1,474.<sup>1</sup>

Medicaid is also known as MA. BEM 105 (January 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.*

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<sup>1</sup> MDHHS also testified that written notice of the determination was not sent to Petitioner.

Redetermination documents submitted to MDHHS on August 1, 2023 reported that Petitioner was aged and/or disabled, a recipient of Medicare, not pregnant, and not a caretaker to minor children. Exhibit A, pp. 4-10. Under the circumstances, Petitioner is ineligible for all MAGI-related categories. As a disabled and/or aged individual, Petitioner is potentially eligible for Medicaid under the SSI-related category of Aged/Disability-Care (AD-Care). MDHHS determined Petitioner ineligible for AD-Care due to excess income.

Petitioner also requested a hearing to dispute a termination of MSP benefits.<sup>2</sup> Exhibit A, p. 3. A HCCDN dated March 26, 2024 stated that Petitioner was ineligible for MSP beginning June 2024 due to excess income. MSP is an SSI-related Medicaid category. BEM 165 (January 2018) p. 1. Because Petitioner's Medicaid and MSP eligibility involve SSI-related MA categories and excess income, the Medicaid and MSP will be combined.

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 unmarried individuals without minor children, Petitioner's SSI-related MA group size is one. BEM 211 (July 2019) p. 8.

For SSI-related MA categories, MDHHS is to determine countable income according to the SSI-related MA policies in BEM 165, 500, 501, 502, 503, 504 and 530. BEM 165 (October 2016) p. 8. MDHHS is to apply the deductions in BEM 540 (for children) and 541 (for adults) to determine a client's net income for MSP. *Id.*

It was not disputed that Petitioner received \$2,077 in gross monthly RSDI during 2024. Generally, MDHHS counts the gross amount of RSDI in determining MA eligibility.<sup>3</sup> BEM 503 (April 2019), p. 28. For SSI-related MA, Petitioner's benefit group's monthly countable income is \$2,077.

For SSI-related categories, MDHHS allows a standard \$20 disregard for unearned income, disregards for employment income, guardianship/conservatorship expense credits, and a disregard for cost-of-living adjustments (January through March only).

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<sup>2</sup> One of three different subprograms are available under MSP. Qualified Medicare Beneficiaries (QMB) coverage pays for a client's Medicare premiums, coinsurances, and deductibles. BEM 165 (January 2018), p. 2. Specified Low Income Beneficiaries (SLMB) coverage pays for a client's Medicare Part B premium. *Id.* Additional Low-Income Beneficiaries (ALMB) coverage pays for a client's Medicare Part B premium if MDHHS funding is available. *Id.* The client's income determines the MSP subprogram issued (see RFT 242).

<sup>3</sup> 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.

Clients with guardianship expenses are entitled to a budget credit of \$83. BEM 541 (January 2024) p. 3. The standard \$20 disregard for unearned income is applicable. Also, because Petitioner has a guardian, Petitioner is entitled to an additional \$83 credit.<sup>4</sup>

For MSP, income eligibility exists when net income is within the limits in RFT 242 or 247. *Id.*, p. 8. Subtracting credits of \$20 and \$83 from Petitioner's RSDI of \$2,077 results in net income of \$1,974. The highest income limit for any MSP category for a group size of one is \$1,714.25.<sup>5</sup> RFT 242 (April 2024) p. 1. Petitioner's group's countable net income exceeds the highest income limit for MSP eligibility. Thus, MDHHS properly terminated Petitioner's MSP eligibility due to excess income.

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 (FPL) for a 1-person group residing in Michigan is \$15,060.<sup>6</sup> Dividing the FPL by 12 results in a monthly income limit of \$1,255: the same income limit is found in MDHHS policy.<sup>7</sup> RFT 242 (April 2024) p. 1. Petitioner's monthly countable income of \$1,974 exceeds the AD-Care income limit. Thus, 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 MA category, 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. *Id.*

Clients with a deductible may receive Medicaid if sufficient allowable medical expenses are incurred.<sup>8</sup> BEM 545 (July 2022) p. 11. 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 gross countable RSDI of \$2,077 is unchanged for G2S. The G2S budget allows a standard \$20 disregard for unearned income and various employment income disregards. The G2S budget also factors ongoing medical expenses (which are applied toward a deductible), insurance premiums, and remedial services. Petitioner is responsible for Medicare premium of \$175 (rounding up to nearest dollar).

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<sup>4</sup> Verification of guardianship expenses is required BEM 541 (January 2024) p. 3. Because guardianship was already acknowledged by MDHHS, guardianship expenses are presumed.

<sup>5</sup> MDHHS policy lists an income limit of \$2,238.50 while noting that the \$20 disregard is already factored.

<sup>6</sup> <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>

<sup>7</sup> MDHHS policy lists an income limit of \$1,275 while noting that the \$20 disregard is already factored.

<sup>8</sup> Clients should be fully aware that medical expenses need only be incurred, and not necessarily paid, to meet a deductible/spenddown.

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), insurance premium (\$175) and unearned income disregard (\$20) from Petitioner's countable income (\$2,077) results in a monthly deductible of \$1,474. MDHHS calculated the same deductible for Petitioner.<sup>9</sup> Exhibit A, p. 34.

MDHHS testified that Petitioner may be eligible for MA under its waiver program for the elderly and disabled. Under the waiver program, clients may be eligible for the waiver program if they have needs that cannot be met by the Home Help program and may be addressed with MI Choice services. MDHHS stated that Petitioner will need to submit additional documents for further consideration.

Petitioner's son and guardian credibly testified that his mother has great need for Medicaid. Though Petitioner's need for Medicaid is unquestioned and the deductible relative to Petitioner's income is substantial, there is no basis for a different outcome. Given the evidence, MDHHS properly determined Petitioner's MA eligibility.

### **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 monthly deductible of \$1,474 beginning November 2023. MDHHS also properly terminated Petitioner's MSP eligibility beginning June 2024. The actions of MDHHS are **AFFIRMED**.

CG/nr

  
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**Christian Gardocki**  
Administrative Law Judge

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<sup>9</sup> Petitioner was eligible for Medicare beginning September 2020. Exhibit A, p. 13. Medicare recipients are not eligible for HMP benefits. BEM 137 (June 2020) p. 1. Presumably, Petitioner previously received MA benefits under the MAGI category of HMP which has a higher income limit than AD-Care.

**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 :**

**Authorized Hearing Rep.**

[REDACTED], MI [REDACTED]

**Petitioner**

[REDACTED], MI [REDACTED]