



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: June 25, 2024  
MOAHR Docket No.: 24-003883  
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 on June 20, 2024. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Shyla Coleman, hearings facilitator.

### **ISSUE**

The issue is whether MDHHS properly determined Petitioner's Medical Assistance (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. As of February 2023, Petitioner was an ongoing recipient of full-coverage MA benefits.
2. As of March, Petitioner received gross monthly Retirement, Survivors and Disability Insurance (RSDI) of \$1,278, an increase of \$39 from 2023.
3. On March 18, 2024, MDHHS determined Petitioner was eligible beginning April 2024 for the limited-coverage MA category of Plan First and eligible for Medicaid subject to a \$708 monthly deductible.

4. On April 5, 2024, Petitioner requested a hearing to dispute the determination of MA benefits.

### **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 to dispute a determination of MA eligibility. Exhibit A, pp. 3-7. A Health Care Coverage Determination Notice dated March 18, 2024, stated that Petitioner was eligible for the limited coverage MA category of Plan First beginning April 2024.<sup>1</sup> Exhibit A, pp. 31-34. The notice also stated that Petitioner was eligible for Medicaid but subject to a monthly deductible of \$708 beginning April 2024.<sup>2</sup> *Id.*

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

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.* AS-Care is a Group 1 category for aged or disabled persons. BEM 163 (July 2017) p. 1.

As of the disputed MA benefit month, Petitioner was disabled and/or aged, at least 19 years of age, not pregnant, a Medicare recipient, and not a caretaker to minor children. Given the circumstances, Petitioner is ineligible for all full-coverage MAGI-related

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<sup>1</sup> Plan First is a MAGI-related limited-coverage MA category available to any United States citizen or individual with a qualified immigration status. BEM 124 (July 2023) p. 1. Generally, Plan First coverage is limited to family planning services such as birth control (see form DCH-2840-MSA).

<sup>2</sup> MDHHS also sent notice on February 15, 2024, stating Petitioner was ineligible for Medicare Savings Program and eligible for Plan First beginning March 2024. Exhibit A, pp. 26-30.

categories. As a disabled and/or aged individual, Petitioner is potentially eligible to receive full-coverage MA under the SSI-related category of AD-Care.

At all relevant times, Petitioner was without minor children and did not reside with a spouse. For purposes of AD-Care, Petitioner's group size is one. BEM 211 (July 2019) p. 8.

As of the disputed benefit month, Petitioner received gross monthly RSDI of \$1,278. Generally, MDHHS counts the gross amount of RSDI in determining Medicaid eligibility. BEM 503 (January 2023) p. 29. 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).

Petitioner presented documentation from the U.S. Department of Treasury indicating her RSDI benefits were being garnished. Exhibit A, p. 10. Petitioner thought the debt was related to a worker's compensation claim from years earlier. The amount of garnishment was not clear but the amount is ultimately irrelevant. Garnishment of RSDI by a third party is not an exception to counting gross RSDI. For purposes of MA benefits, Petitioner's countable RSDI is \$1,278.

For SSI-Related MA categories, MDHHS is to apply the deductions allowed in BEM 541 for adults. BEM 163 (July 2017) p. 2. A \$20 disregard is given for unearned income. BEM 541 (July 2019) p. 3. Subtracting the \$20 disregard from Petitioner's RSDI results in countable income of \$1,258.

MDHHS also gives AD-Care budget credits for employment income, guardianship expenses, and/or conservator expenses. Cost of living adjustments (COLA) are applicable for the benefit months of January through March only. BEM 503 (January 2023) p. 29. No credits were applicable for Petitioner.

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 for a 1-person group residing in Michigan is \$15,060.<sup>3</sup> Dividing the annual FPL by 12 results in a monthly income limit of \$1,255. The same income limit is found in policy.<sup>4</sup> RFT 242 (April 2023) p. 1. Petitioner's countable income of \$1,278 exceeds the AD-Care income limit by \$3.<sup>5</sup> Given the evidence, 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 category offering unlimited MA coverage, Petitioner may still receive MA under a Group

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<sup>3</sup> <https://www.healthcare.gov/glossary/federal-poverty-level-fpl/>

<sup>4</sup> MDHHS policy lists an income limit of \$1,275 was noting the \$20 disregard is factored into the limit.

<sup>5</sup> Presumably, Petitioner's group's income is within the income guidelines to receive the limited coverage MA category of Plan First. Plan First eligibility requires income within 195% of the FPL. BEM 124 (July 2023) p. 2.

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 (see BEM 166).

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. 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 RSDI of \$1,278 is unchanged for G2S. The G2S budget allows a \$20 disregard for unearned income and various employment income disregards. COLA is also applicable for January, February, and March budget months. In addition to AD-Care disregards, the G2S budget factors ongoing medical expenses (which are applied toward a deductible), insurance premiums, and remedial services. MDHHS credited Petitioner with a \$20 disregard and a \$175 (rounding up to nearest dollar) Medicare premium.

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 \$375. RFT 240 (December 2013) p. 1.

Subtracting the PIL (\$375), \$20 unearned income disregard, and \$175 Medicare premium from Petitioner's countable RSDI of \$1,278 results in a monthly deductible of \$708: the same deductible calculated by MDHHS.

### **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 \$708 monthly deductible beginning April 2024. The actions of MDHHS are **AFFIRMED**.

CG/nr



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**Christian Gardocki**

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**

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**Petitioner**

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