



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES  
SUZANNE SONNEBORN  
EXECUTIVE DIRECTOR

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DIRECTOR

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[REDACTED] MI [REDACTED]

Date Mailed: July 12, 2024  
MOAHR Docket No.: 24-004592  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Linda Jordan**

### **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 on June 13, 2024, via teleconference. Petitioner appeared and represented herself. Danielle Moton appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department). MDHHS' Hearing Packet was admitted into evidence at the hearing as MDHHS Exhibit A, pp. 1-16.

### **ISSUE**

Did MDHHS properly determine Petitioner's eligibility for Medicaid (MA)?

### **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 Extended Care (Exhibit A, p. 6).
2. On February 7, 2024, MDHHS sent Petitioner a Health Care Coverage Determination Notice indicating that she was approved for Plan First MA, a limited MA coverage category, and MA with a \$906.00 deductible, beginning March 1, 2024 (Exhibit A, p. 8).
3. On April 15, 2024, Petitioner filed a Request for Hearing regarding her MA coverage (Exhibit A, p. 3).

## 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).

Medicaid (MA) 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 MA pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MA is also known as Medical Assistance. BEM 105 (January 2024), p. 1.

In this case, MDHHS determined that Petitioner was eligible for Plan First MA, a limited MA coverage category, and Group 2 Aged, Blind, Disabled (G2S) MA with a monthly deductible of \$906.00, effective March 1, 2024, ongoing. MDHHS ended Petitioner's MA Extended Care coverage on February 29, 2024 (Exhibit A, p. 6).

MA includes several sub-programs or categories. BEM 105, p. 1. 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.* MA eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, MICHild, Flint Water Group and Health Michigan Plan (HMP) is based on Modified Adjusted Gross Income (MAGI) methodology. *Id.* The terms Group 1 and Group 2 relate to financial eligibility factors. *Id.* For Group 1, net income (countable income minus allowable income deductions) must be at or below a certain income limit for eligibility to exist. *Id.* The income limit, which varies by category, is for nonmedical needs such as food and shelter. *Id.* Medical expenses are not used when determining eligibility for MAGI-related and SSI-related Group 1 categories. *Id.* For Group 2, eligibility is possible even when net income exceeds the income limit. *Id.* This is because incurred medical expenses are used when determining eligibility for Group 2 categories. *Id.* Group 2 categories are considered a limited benefit because a deductible is possible. *Id.*

G2S MA is an SSI-related MA category available to a person who is aged (65 or older), blind, or disabled. BEM 166 (April 2017), p. 1. Income eligibility exists when net income does not exceed the Group 2 needs in BEM 544. *Id.* If net income exceeds the Group 2 needs, MA eligibility is still possible with a deductible. *Id.* Plan First MA is a MAGI-related limited coverage MA category, that covers services related to family planning and reproductive health. To be eligible for Plan First, a person must meet all non-financial eligibility factors and their income cannot exceed 195% of the Federal Poverty Level (FPL). BEM 124 (July 2023), p. 1. 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.*

Extended Care MA is an SSI-related Group 1 MA category. BEM 164 (July 2020). This category is available only to L/H and waiver clients who are aged (65 or older), blind or disabled. *Id.* An L/H patient is a MA client who was in the hospital and/or long-term care facility (LTC) in a hospital and/or long-term care facility (L/H) month. BPG Glossary (February 2024), p. 39. A waiver refers to a home and community-based waiver, such as MI Choice. *Id.*, p. 74. The MI Choice Waiver Program home and community-based services for aged and disabled persons who, if they did not receive such services, would require care in a nursing home. BEM 106 (October 2022), p. 1. The MI Choice waiver is not an MA category, but there are special eligibility rules for people approved for the waiver. *Id.* The Medical Services Administration (MSA) administers the waiver through contracts with Pre-paid Ambulatory Health Plans. *Id.* The local MDHHS office is responsible for completing an initial asset assessment and determining MA eligibility for potential waiver participants. *Id.*, p. 3.

At the hearing, the representative from MDHHS did not know why Petitioner was no longer approved for a community-based services waiver. MDHHS stated that it received information that Petitioner was no longer had a current waiver or L/H status and therefore, she was not eligible to receive Extended Care MA. MDHHS assessed Petitioner's eligibility for MA under other MA categories and determined that Petitioner was eligible for G2S MA with a deductible. Petitioner testified that she recently lost her home care services and that she believed she was still eligible, or should be eligible, for those services. Petitioner was advised to contact the waiver agent who was responsible for administering her waiver for more information.

Given the lack of information regarding the termination of Petitioner's waiver eligibility, it is unclear from the record whether the termination was proper. MDHHS introduced evidence that Petitioner's Special MA Approval for the waiver program started October 1, 2020 and ended June 30, 2021. Although MDHHS does not determine the approval and termination date of a waiver, Petitioner disputed that she was no longer eligible for the waiver services. Whenever an eligibility factor is unclear or in dispute, MDHHS is required to request verification from the client or from a third-party source, such as the waiver agency. BAM 130 (October 2023), p. 1. Before determining eligibility, MDHHS must give clients a reasonable opportunity to resolve any discrepancies between their statements and information from a third-party source. *Id.*, at 9. Given that Petitioner's waiver status was an eligibility factor in dispute, MDHHS should have requested verification from Petitioner or from a third-party source. There is no indication that it did so in this case and it did not provide adequate information about Petitioner's eligibility for a waiver at the hearing.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy determined Petitioner's eligibility for MA.

**DECISION AND ORDER**

Accordingly, MDHHS' 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 eligibility for MA, including Extended Care MA, requesting additional information, as necessary, from March 1, 2024 ongoing;
2. Provide Petitioner with the most beneficial MA coverage that she is eligible to receive, from March 1, 2024 ongoing; and
3. Notify Petitioner of its decision in writing.



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**Linda Jordan**  
Administrative Law Judge

LJ/pt

**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  
8655 Greenfield  
Detroit, MI 48228

**MDHHS-Wayne-17-hearings@michigan.gov**

**Interested Parties**

BSC4  
M. Schaefer  
EQAD  
MOAHR

**Via-First Class Mail:**

**Petitioner**

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