



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



Date Mailed: June 24, 2024  
MOAHR Docket No.: 24-005035  
Agency No.: 130068118  
Petitioner: Darlene Threlkeld

**ADMINISTRATIVE LAW JUDGE: Danielle Nuccio**

### **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 June 17, 2024. Petitioner appeared and represented herself. The Department of Health and Human Services (MDHHS) was represented by Princess Ogundipe, Assistance Payments Supervisor.

### **ISSUE**

Did MDHHS properly determine Petitioner's MA coverage and calculate Petitioner's MA deductible/spenddown amount?

### **FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Under the Families First Coronavirus Response Act (FFCRA), PL 116-127, Michigan received additional federal MA funding during the COVID-19 pandemic health emergency (PHE).
2. As a condition for receiving the increased funding, § 6008 of the FFCRA required that MDHHS provide continuous MA coverage for individuals who were enrolled in MA on or after March 18, 2020, even if those individuals became ineligible for MA for reasons other than death, residing outside of Michigan, or requesting that MA be discontinued.

3. The MA continuous coverage requirement under § 6008 of the FFCRA was not indefinite.
4. The Consolidated Appropriations Act, 2023 (CAA, 2023), PL 117-328, terminates the continuous coverage requirement effective March 31, 2023.
5. Beginning April 1, 2023, the CAA, 2023 required MDHHS to reevaluate almost all MA recipients' eligibility for ongoing MA.
6. Petitioner is an ongoing MA recipient.
7. Petitioner is a Medicare recipient. Petitioner is responsible for paying her Medicare Part B insurance premium herself.
8. On April 5, 2024, Petitioner submitted a redetermination of benefits for MA benefits to MDHHS. Petitioner receives \$2,304.00 in monthly Retirement, Survivors, Disability Insurance (RSDI) (Exhibit A, pp. 16-22).
9. On May 8, 2024, MDHHS issued a Healthcare Coverage Determination Notice to Petitioner, informing her that she was eligible for MA coverage under SSI-related Group 2 (G2S) MA category with a \$1,701.00 deductible and for Plan First MA, effective May 1, 2024 (Exhibit A, p. 15).
10. On April 30, 2024, MDHHS received Petitioner's timely submitted hearing request disputes the change to her MA coverage (Exhibit A, pp. 4-9).

### **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.

Starting April 1, 2023, ongoing MA eligibility must be renewed. For MA beneficiaries whose MA eligibility is based on their Modified Adjusted Gross Income (MAGI)-based income, MA must be renewed once every 12 months and no more frequently than once every 12 months. 42 CFR 435.916(a)(1). For MA beneficiaries whose MA eligibility is not based on their MAGI-based income, MA eligibility must be redetermined at least

every 12 months. 42 CFR 435.916(b). Any renewal form or notice must be accessible to persons who are limited English proficient and persons with disabilities. 42 CFR 435.916(f)(2).

In conducting this renewal or redetermination, MDHHS must check available information and data sources to attempt to redetermine eligibility before contacting the beneficiaries. 42 CFR 435.916(a)(2) and (b), 435.948, and 435.949. Before concluding that an individual is ineligible for MA, MDHHS must evaluate the individual's eligibility for MA on all bases for MA coverage, including the Medicare Savings Programs. 42 CFR 435.916(f)(1).

Upon reviewing Petitioner's eligibility criteria at redetermination, MDHHS concluded that Petitioner is no longer eligible for full coverage MA but is eligible for G2S MA with a \$1,701.00 deductible and the limited coverage Plan First MA.

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, and (iii) to individuals who meet the eligibility criteria for Healthy Michigan Plan (HMP) coverage. 42 CFR 435.911; 42 CFR 435.100 to 435.172; BEM 105 (January 2024), p. 1; BEM 137 (January 2024), 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.

As a disabled and/or aged individual, Petitioner is potentially eligible to receive MA benefits through AD-Care. AD-Care is an SSI-related full-coverage MA program. BEM 163 (July 2017), p. 1. At the time of the redetermination, Petitioner receives \$2,304.00 per month in RSDI benefits. Petitioner has no other household income. As Petitioner is not married, per policy, Petitioner's fiscal group size for SSI-related MA benefits is one. BEM 211 (July 2019), p. 8. MDHHS gives AD-Care budget credits for employment income, and guardianship and/or conservator expenses. Petitioner did not submit that any such factors were applicable. Income eligibility for AD-Care exists when countable income does not exceed the income limit for the program. BEM 163, p. 2. The income limit for AD-Care for a one-person MA group is \$1,235.00 RFT 242 (April 2023), p. 1. Because Petitioner's monthly household income exceeds \$1,235.00, MDHHS properly determined Petitioner to be ineligible for MA benefits under AD-Care.

Petitioner may still receive MA benefits subject to a monthly deductible through a Group 2 Medicaid category. Petitioner is not the caretaker of any minor children, and therefore, does not qualify for MA through the Group 2-Caretaker MA program.

Petitioner may receive MA benefits subject to a monthly deductible through the G2S program. G2S is an SSI-related MA category. BEM 166 (April 2017), p.1. As discussed, Petitioner's SSI-related MA group size is one. Petitioner's net income is \$2,284.00 (gross income reduced by a \$20 disregard). BEM 541 (January 2024), p. 3. The

deductible is in the amount that the client's net income (less any allowable needs deductions) exceeds the applicable Group 2 MA protected income levels (PIL); the PIL is based on the client's MA fiscal group size and the county in which she resides. BEM 105, p. 1; BEM 166, pp. 1-2; BEM 544 (January 2020), p. 1; RFT 240 (December 2013), p. 1; RFT 200 (April 2017), p. 2. The monthly PIL for Petitioner, with an MA fiscal group size of one living in Oakland County, is \$408 per month. RFT 200, p. 3; RFT 240, p. 1. Thus, if Petitioner's monthly net income (less allowable needs deductions) is in excess of \$408, then she is eligible for MA assistance under the deductible program, with the deductible equal to the amount that her monthly net income, less allowable deductions, exceeds \$408.00. BEM 545 (July 2022), pp. 2-3.

In determining the monthly deductible, net income is reduced by health insurance premiums paid by the MA group, remedial service allowances for individuals in adult foster care or homes for the aged, and ongoing medical expenses. BEM 544, pp. 1-3. MDHHS presented a budget showing the calculation of Petitioner's deductible amount (see Exhibit A, p. 11). In this case, there was no evidence that Petitioner resides in an adult foster care home or home for the aged. Therefore, Petitioner is not eligible for any remedial service allowances. Petitioner pays her Medicare insurance premium out of pocket. MDHHS properly calculated Petitioner's insurance deductible at \$174.70. Petitioner stated that she has ongoing medical expenses for home health services, but she has not yet submitted verification of those expenses to MDHHS for their consideration. Since MDHHS did not receive documentation of these expenses, they properly calculated Petitioner's ongoing medical expenses to be \$0.00. Petitioner's net income of \$2,109.30 (\$2,304 in income - \$20 disregard - \$174.70 insurance premium) reduced by the \$408.00 PIL is \$1,701.00. Therefore, the Department properly determined that Petitioner is eligible for MA benefits under the G2S program subject to a monthly deductible of \$1,701.00.

Petitioner is advised that if her income or medical expenses change in the future, she should submit that information to MDHHS.

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 determined Petitioner's MA coverage.

### **DECISION AND ORDER**

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



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**Danielle Nuccio**  
Administrative Law Judge

DN/nr

**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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