



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: July 22, 2024
MOAHR Docket No.: 24-005952
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 July 10, 2024. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Melissa Minard, specialist, and Stephanie Armstrong, specialist.

ISSUES

The first issue is whether MDHHS properly terminated Petitioner's Medicaid eligibility under the Medical Assistance (MA) program.

The second issue is whether MDHHS properly terminated Petitioner's Medicare Savings Program (MSP) eligibility under the MA program.

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 March 2024, Petitioner received ongoing Medicaid and MSP benefits.
2. As of March 2024, Petitioner's most expensive vehicle was a 2021 Chevrolet Silverado. Petitioner additionally owned a Harley Davidson motorcycle with an equity value exceeding \$20,000 and at least four other vehicles.

3. On March 21, 2024, Petitioner timely returned to MDHHS redetermination documents and reported being disabled, 19-65 years of age, not a caretaker to minor children, unmarried, and not pregnant.
4. As of March 2024, Petitioner received gross monthly Retirement, Survivors and Disability Insurance (RSDI) of \$1,683.
5. As of March 2024, Petitioner received gross monthly Veteran Administration (VA) benefits of \$1,995 per month.
6. As of March 2024, Petitioner received two monthly employment pensions of \$583 and \$50.
7. As of March 2024, Petitioner received \$ [REDACTED] in gross monthly wages.
8. On April 30, 2024, MDHHS determined Petitioner was ineligible for Medicaid and Medicare Savings Program (MSP) beginning June 2024 due to excess income.
9. On April 15, 2024, Petitioner requested a hearing to dispute the termination 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, in part, to dispute a termination of Medicaid benefits. Exhibit A, pp. 4-5. A Health Care Coverage Determination Notice dated April 30, 2024, stated that Petitioner's Medicaid eligibility would end June 2024 due to excess income. Exhibit A, pp. 15-17.

Medicaid falls under the MA program. 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 categories, a group's net income must be at or below a certain income level for eligibility. *Id.* Clients eligible for Group 1 categories are eligible for medical coverage without any deductible. Clients eligible for Group 2 categories are only eligible for medical coverage when medical expenses equal or exceed the deductible amount.

On March 21, 2024, Petitioner submitted redetermination documents to MDHHS which reported that Petitioner was the following: certified as disabled, 19-66 years of age, not a caretaker to minor children, unmarried, a Medicare recipient, and not pregnant. Exhibit A, pp. 7-13. Petitioner's circumstances would typically limit Petitioner to the SSI-related category of AD-Care. However, Petitioner received employment income despite being disabled. Petitioner's employment suggests possible alternative eligibility under the Freedom-to-Work (FTW) category.

FTW is an SSI-related Group 1 MA category available to a client with disabilities age 16 through 65 who has earned income. BEM 174 (January 2020) p. 1. The client must be disabled according to the disability standards of the Social Security Administration, except employment, earnings; substantial gainful activity cannot be considered in the disability determination. *Id.* FTW is the MA category with the highest income limit for which Petitioner may be eligible.

MDHHS is to determine countable earned and unearned income according to SSI-related MA policies in BEM 500, 501, 502, 503, 504, and 530.¹ BEM 174 (January 2020) p. 3. MDHHS is to determine income deductions using BEM 540 (for children) or 541 (for adults). *Id.*

At all relevant times, Petitioner was without minor children and did not reside with a spouse. For purposes of FTW, Petitioner's group size is one. BEM 211 (October 2023) p. 8.

As of the disputed benefit month, Petitioner received unearned income from four sources. Petitioner received gross monthly RSDI of \$1,683. Generally, MDHHS counts the gross amount of RSDI in determining Medicaid eligibility.² BEM 503 (January 2023) p. 29. Petitioner received \$1,995 in VA pension benefits. MDHHS is to count the gross amount of VA pension benefits. *Id.*, p. 39. Petitioner also received two monthly retirement pensions totaling \$633. MDHHS counts gross retirement income in determining SSI-related

¹ Unemployment benefits are not countable in determining FTW eligibility.

² 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.

MA eligibility. *Id.*, p. 29. Adding Petitioner's unearned income results in a total monthly income of \$4,311.

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 unearned income total of \$3,728 results in countable unearned income of \$4,291.

MDHHS gives SSI-related Group 1 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 2019) p. 29. There was no evidence of relevant budget expenses or credits.

Initial income eligibility exists for FTW when the client's countable income does not exceed 250 percent of the Federal Poverty Level (FPL). BEM 163 (January 2024) p. 3 Ongoing eligibility exists when the client's unearned income does not exceed 250 percent of the FPL. *Id.* In 2024, the annual federal poverty level for a 1-person group in Michigan is \$15,060.³ Dividing the annual amount by 12 results in a monthly income limit of \$1,255. Multiplying the income limit by 2.5 results in a monthly FTW income limit of \$3,137.50. Petitioner's countable income of \$4,291 exceeds the FTW and AD-Care income limits.⁴ Thus, MDHHS properly determined Petitioner to be ineligible for Group 1 MA categories.

Though Petitioner is ineligible for MA benefits under a Group 1 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.*

Clients with a deductible may receive MA if sufficient allowable medical expenses are incurred.⁵ BEM 545 (April 2018), 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.*

For aged/disabled persons, G2S is the applicable Group 2 SSI-Related MA category. BEM 166 (July 2017) p. 1. MDHHS determined that Petitioner was ineligible for G2S due to exceeding the asset limit. Generally, the asset limit for SSI-related MA categories is \$2,000 for groups with only one member. BEM 400 (April 2024) p. 8.

³ <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>

⁴ The AD-Care income limit is 100% of the FPL (see BEM 163).

⁵ Clients should be aware that medical expenses need only be incurred, and not necessarily paid, to meet a deductible/spenddown.

MDHHS determined that Petitioner's vehicles, by themselves, placed Petitioner well-above the asset limit. Vehicles include transportation such as cars and motorcycles. *Id.*, p. 40. One vehicle is to be excluded from the eligibility determination. *Id.* The equity value of vehicles is a countable asset in determining SSI-related MA eligibility. *Id.*, p. 41.

It was not disputed that Petitioner's most expensive vehicle was a car. It was also not disputed that Petitioner owned a motorcycle which had an equity value exceeding \$20,000. Excluding Petitioner's most expensive car, Petitioner's motorcycle placed him above the asset limit of \$2,000.⁶ Thus, MDHHS properly determined Petitioner was over the asset limit for Group 2 MA categories.

Petitioner also requested a hearing to dispute a termination of MSP benefits beginning June 2024 Exhibit A, pp. 4-5. A Health Care Coverage Determination Notice dated April 30, 2024, stated that Petitioner's MSP eligibility would end June 2024 due to excess income. Exhibit A, pp. 15-17.

MSP is an SSI-related Medicaid category. BEM 165 (October 2022) p. 1. 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).

For MSP eligibility, 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 2022) 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.*

As an SSI-related MA category, the same income calculated for Petitioner in the Medicaid analysis applies to the MSP analysis. Petitioner's countable monthly income for MSP is \$4,291.

Income eligibility exists for MSP when net income is within the limits in RFT 242 or 247. *Id.*, p. 8. After the \$20 disregard is factored, the highest income limit for any MSP category for a group size of one person is \$2,319.50. 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.

⁶ Petitioner acknowledged having at least four other vehicles. The value of those vehicles need not be considered because Petitioner's vehicle and motorcycle alone placed Petitioner above the asset limit.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly terminated Petitioner's Medicaid and MSP beginning June 2024. The actions taken by MDHHS are **AFFIRMED**.

CG/nr



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 :

DHHS

Gary Leathorn - 74
St Clair County DHHS
220 Fort St.
Port Huron, MI 48060

MDHHS-STCLAIR-HEARINGS@michigan.gov

Interested Parties

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Via-First Class Mail :

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