



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

MARLON BROWN DPA  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED] MI [REDACTED]

Date Mailed: April 17, 2024  
MOAHR Docket No.: 24-001782  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler**

### **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 April 10, 2024. The Petitioner was represented by his Guardian and Authorized Hearings Representative (AHR) [REDACTED]. The Department of Health and Human Services (Department) was represented by Priya Johnson, Assistance Payments Supervisor.

### **ISSUE**

Did the Department properly determine Petitioner's Medical Assistance (MA) Program 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. 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, terminated 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 underwent the Redetermination process.
7. Beginning October 2023, Petitioner received \$[REDACTED] in RSDI benefits.
8. Petitioner's Medicare Part A and B began effective November 2023.
9. Petitioner's Medicare Part B premium is \$164.90 per month effective November 2023.
10. Effective January 1, 2024, Petitioner receives Retirement Survivors Disability Insurance (RSDI) benefits of \$[REDACTED] per month and has a Medicare Part B premium of \$174.70 per month.
11. Petitioner is age [REDACTED] and not married.
12. Petitioner never received Supplemental Security Income (SSI) benefits.
13. On January 19, 2024, The Department issued a Health Care Coverage Determination Notice (HCCDN) to Petitioner advising him that for November 2023, he was eligible for Medicare Savings Program (MSP) under the Specified Low-Income Medicare Beneficiary (SLMB) category but was ineligible for MSP effective January 2024 because his income exceeded the limit for the program. The HCCDN also advised Petitioner that effective February 2024, he was eligible for Plan First (PF).
14. On February 6, 2024, the Department received Petitioner's request for hearing.
15. On February 27, 2024, case updates were made.
16. The Bridges Eligibility Summary screen shows that effective February 2024, Petitioner's Healthy Michigan Plan (HMP) benefit was closed, his MSP SLMB benefits was closed December 2023, his MSP Additional Low-Income Beneficiary (ALMB) was denied effective February 1, 2024, and finally effective April 1, 2024, he is eligible for MA PF as well as Group 2-under age 21 (G2U) with a deductible of \$924.00.
17. The Bridges FIP Related MA Budget for G2U shows a deductible of \$1,089.00 effective April 1, 2024.
18. The parties agreed at the hearing to address the case updates which occurred after the request for hearing.

### **APPLICABLE LAWS**

Authority for the ALJ to conduct the hearing is provided under MCL 400.9 and 400.37; 42 USC 1396(3); 42 CFR 431.200 to 431.250.

MDHHS policies are contained in the Michigan Department of Health and Human Services Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

The MA program is established by Title XIX of the Social Security Act, 42 USC 1396 *et seq*; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, PL 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, PL 111-152; 42 CFR 430.10 to 42 CFR 430.25; 42 CFR 431.200 to 431.250; and 42 CFR 438.400 to 438.424. MDHHS administers the MA program pursuant to 42 CFR 435, MCL 400.10 and MCL 400.103 to MCL 400.112k of the Social Welfare Act, MCL 400.1 *et seq*.

### **CONCLUSIONS OF LAW**

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).

In this case, Petitioner's HMP benefit was closed as was his MSP benefit effective February 1, 2024 and he was provided PF and G2U with a deductible effective April 1, 2024. Petitioner disputes the closure of his full coverage benefits and placement in PF and G2U categories.

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, (iii) to individuals who meet the eligibility criteria for Healthy Michigan Plan (HMP) coverage, and (iv) to individuals who meet the eligibility criteria for Plan First Medicaid (PF-MA) coverage. 42 CFR 435.911; 42 CFR 435.100 to 435.172; BEM 105 (January 2024), p. 1; BEM 137 (January 2024), p. 1; BEM 124 (July 2023), p. 1. HMP is a MAGI-related MA category that provides MA

coverage to individuals who (i) are 19 to 64 years of age; (ii) have income under the MAGI methodology at or below 133% of the federal poverty level (FPL); (iii) do not qualify for or are not enrolled in Medicare; (iv) do not qualify for or are not enrolled in other MA programs; (v) are not pregnant at the time of application; and (vi) are residents of the State of Michigan. BEM 137, p. 1; 42 CFR 435.603. 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 (January 2021), p. 2; 42 CFR 435.404.

#### **MAGI-RELATED PROGRAMS: HMP**

Because he qualified for and was enrolled in Medicare effective November 2023, Petitioner is not eligible for HMP. The closure of Petitioner's HMP benefit was in accordance with policy.

#### **SSI-RELATED MA (DISABLED, BLIND OR OVER-65)**

Because Petitioner receives RSDI and is a Medicare recipient, Petitioner may be eligible for MA under an SSI-related category. In determining the SSI-related MA category Petitioner is eligible for, MDHHS must determine Petitioner's MA fiscal group size and net income. As an unmarried individual, Petitioner has fiscal group size for SSI-related MA purposes of one. BEM 211 (October 2023), p. 8.

Disabled Adult Children (DAC) is an SSI-related Group 1 MA category available to a person receiving disabled adult children's Retirement Survivors Disability Insurance (RSDI) benefits under Section 202(d) of the Social Security Act if that person is age 18 or older, received SSI, ceased to be eligible for SSI on or after July 1, 1987 because the person became entitled to DAC RSDI benefits under Section 202(d) of the Act or an increase in such RSDI benefits, is currently receiving DAC RSDI benefits under Section 202(d) of the Act, and would be eligible for SSI without such RSDI benefits. BEM 158 (October 2014), p. 1. Because Petitioner never received SSI benefits, even if he was eligible for SSI, he is not eligible for DAC MA benefits. *Id.*

The AD-Care program, an SSI-related MA category, requires that net group income cannot exceed one hundred percent of the federal poverty level plus \$20.00. BEM 163, pp. 1-2. The 2024 federal poverty level for a one-person household was \$15,060 annually or \$1,255.00 per month. <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>. BEM 163 (July 2017), p. 2.

Countable income is calculated by adding the amounts of income actually received or reasonably anticipated within the month. BEM 530 (April 2020), p. 2. RSDI is considered countable income. BEM 503 (January 2023), pp. 29, 37. Effective February 1, 2024, when Petitioner's HMP benefit closed, he received a gross RSDI benefit of \$1,497.70 per month. However, policy and Federal law require the cost-of-living increase received in January of each year to be disregarded for January, February, and March of each year. BEM 503 (January 2023), p. 30. Therefore, for purposes of MA eligibility beginning February 2024, Petitioner's previous RSDI benefit rate of \$1,447.90 is used to determine

his eligibility for February and March, but the new rate of \$1,497.70 is used for April, ongoing. Next, \$20.00 is subtracted for the general exclusion and Petitioner's Net Income is \$[REDACTED] for February and March, and \$[REDACTED] for April, ongoing. BEM 541 (January 2024), p. 3. No evidence was presented that Petitioner has any expenses for child support, work-related expenses, nor guardianship or conservator expenses. BEM 541, pp. 1-7. Therefore, Petitioner's Net Income is greater than the net income limit for AD-care. Petitioner is not eligible for the full coverage AD-Care program.

### **Medicare Savings Program (MSP)**

Petitioner's MSP coverage also ended effective February 2024. There are three categories for MSP. The Qualified Medicare Beneficiary (QMB) plan is the full coverage MSP and pays for Medicare premiums, coinsurances, and deductibles. BEM 165 (October 2022), pp. 1-2. The Specified Low-Income Medicare Beneficiary (SLMB) plan is a limited coverage MSP and pays Medicare Part B premiums. *Id.* A third MSP plan is the Additional Low-Income Medicare Beneficiary (ALMB) and it pays for Medicare Part B premiums if funding is available. *Id.* QMB.

Income determines placement in the programs. BEM 165, p. 1. For QMB, net income cannot exceed 100% of the federal poverty level, the same as AD-Care. *Id.* As was discussed previously, Petitioner's net income exceeds the AD-Care and QMB income limit. SLMB is available for individuals whose income is over 100% of the federal poverty level, but not more than 120% of the federal poverty level. *Id.* Finally, ALMB is available to those whose income exceeds 120% of the federal poverty level but does not exceed 135%. *Id.* The income limit for SLMB is \$18,072.00 or \$1,506.00. *Id.* Finally, the income limit for ALMB is \$20,331.00 or \$1,649.25. *Id.* Petitioner has a net income of \$[REDACTED] for February and March, and \$[REDACTED] for April, ongoing. Petitioner's income falls below the income limit for SLMB for February 2024, ongoing. The Department improperly closed Petitioner's MSP benefit.

### **Group 2-Under Age 21 (G2U)**

Petitioner had excess income for AD-care, however, he may still be eligible for G2U with a deductible equal to the amount of the child's net income (countable income minus allowable income deductions) which exceeds the applicable Group 2 MA protected income level (PIL) based on the county in which the child resides and child's fiscal group size. BEM 132 (April 2018), p. 2; BEM 544 (January 2020), p. 1; RFT 240 (December 2013), p. 1. An individual under age 21 who is not eligible for MA under MAGI-related policies is eligible for MA under a Group 2 Under 21 (G2U) category when the individual meets all eligibility requirements other than income. BEM 132, p. 1. In such cases, the client is eligible for MA coverage with a deductible, with the deductible equal to the amount the net income (countable income minus allowable income deductions) exceeds the applicable Group 2 MA protected income level (PIL). BEM 132, p. 2; BEM 544, p. 1. The PIL is based on the client's shelter area (county in which the client resides) and fiscal group size. BEM 132, p. 2; BEM 544, p. 1; RFT 240, p. 1; RFT 200 (April 2017), p. 3. The Department presented a G2-FIP-related MA budget showing the calculation of the deductible effective April 2024; however, the Department also presented an eligibility summary which reflected a different deductible amount. Petitioner has a group size of

one as he is an unmarried adult. BEM 211, pp. 4, 8. The PIL for Petitioner who resides in Oakland County is \$408.00, which was correctly listed by the Department on the budget. BEM 211, p. 8; RFT 240, p. 1; RFT 200, p. 3.

Income eligibility exists when net income does not exceed the Group 2 needs in BEM 544 and all policies found in BEM 500, 530, and 536 are applied to determine net income. BEM 132, p. 2. The G2U net income calculation starts with determining Petitioner countable income, \$[REDACTED] for February and March, and \$[REDACTED] for April, ongoing. Because Petitioner has no earned income, nor guardianship/conservator, or child support expenses, and no dependents (a person's spouse and children), Petitioner's net income is his total net income, or \$[REDACTED] and \$[REDACTED] respectively. BEM 536, pp. 1-6.

The remainder of the calculations are governed by BEM 544 and 545. BEM 536, p. 7. Deductions are given for insurance premiums and remedial services. BEM 544, pp. 1-2. As seen above, Petitioner is eligible for MSP assistance meaning he is not responsible for his Medicare Part B premiums. Therefore, those premiums are not considered here, and no other evidence of insurance premiums were presented for consideration. In addition, no evidence was presented of remedial services which produce the maximum reduction of physical and mental limitations and restore an individual to their best possible functioning level. BEM 544, p. 2. Remedial care services include basic self-care and rehabilitation training which teach and reinforce dressing, grooming, eating, bathing, toileting, and following simple instructions. BEM 544, p. 2. Remedial services do not include personal care services as defined in BEM 545. To achieve the deductible, the PIL of \$408 is subtracted from the total net income. *Id.* After subtracting the PIL, Petitioner's deductible is \$1,039.00 for February and March 2024 and \$1,089.00 for April 2024, ongoing. While the Department's budget presented in the hearing packet appears to appropriately calculate Petitioner's deductible for April 2024, ongoing, the eligibility summary reflects a different deductible. In addition, no eligibility was determined for February or March 2024 under G2U. Finally, the Department did not present any evidence of an HCCDN having been issued to advise Petitioner of eligibility and deductible.

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 when it closed Petitioner's Medicare Savings Program (MSP) case and determined Petitioner's G2U eligibility effective February 2024, ongoing.

### **DECISION AND ORDER**

Accordingly, the Department's 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 MA and MSP eligibility effective February 2024, ongoing;
2. If otherwise eligible, issue supplements to Petitioner or on his behalf for benefits not previously received; and,
3. Notify Petitioner in writing of its decision.



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**Amanda M. T. Marler**  
Administrative Law Judge

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