



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

[REDACTED]  
MI [REDACTED]

Date Mailed: August 19, 2024  
MOAHR Docket No.: 24-008209  
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 line on August 15, 2024. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Sunshine Simonson, specialist.

### **ISSUES**

The first issue is whether MDHHS properly determined Petitioner's Medical Assistance (MA) eligibility.

The second issue is whether MDHHS properly determined Petitioner's Medicare Savings Program (MSP) 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. On [REDACTED] [REDACTED] 2024, Petitioner applied for MA benefits.
2. As of May 2024, was disabled, not pregnant, a Medicare recipient, and a caretaker to three minor children.
3. As of May 2024, Petitioner received gross monthly Retirement, Survivors, Disability Insurance (RSDI) of \$2,205.

4. On June 27, 2024, MDHHS terminated Petitioner's MSP eligibility beginning May 2024.
5. On July 9, 2024, MDHHS determined Petitioner was eligible only for the limited-coverage MA category of Plan First and Medicaid subject to a \$531 monthly deductible beginning May 2024.
6. On July 9, 2024, Petitioner requested a hearing to dispute the determination of Medicaid and termination of MSP 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 determination of MA benefits. Exhibit A, pp. 3-4. A Health Care Coverage Determination Notice dated July 9, 2024, stated that Petitioner was eligible only for the limited-coverage MA category of Plan First and Medicaid subject to a \$531 monthly deductible beginning May 2024.<sup>1</sup> Exhibit B, pp. 7-12.

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.<sup>2</sup> *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.*

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<sup>1</sup> MDHHS determined that Petitioner was eligible for Medicaid in May 2024 after meeting a monthly deductible on May 14, 2024. A summary of medical expenses used to meet the deductible was included. Exhibit B, p. 6.

<sup>2</sup> Eligibility factors for all MA categories are found in the Bridges Eligibility Manual from BEM 105 through BEM 174.

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.* Group 2 categories are considered a limited benefit (not limited coverage) because a deductible is possible. *Id.*

It was not disputed that Petitioner was disabled, 21-65 years of age, not pregnant, a Medicare recipient, and a caretaker to minor children. As a non-pregnant Medicare recipient above the age of 21 and a caretaker to minor children, Petitioner is ineligible for all full-coverage MAGI-related categories other than Low-Income Family (LIF). As a disabled individual, Petitioner is potentially eligible to receive full-coverage MA under the Group 1 SSI-related category of Aged/Disabled Care (AD Care). BEM 163 (July 2017) p. 1. Because MDHHS denied both categories due to excess income, only the category of AD-Care will be considered due to the higher income limit.<sup>3</sup>

At all relevant times, Petitioner was unmarried. For purposes of AD-Care, Petitioner's group size is one. BEM 211 (October 2023) p. 8.

As of the disputed benefit month, Petitioner received gross monthly RSDI of \$2,205. Generally, MDHHS counts the gross amount of RSDI in determining Medicaid eligibility.<sup>4</sup> BEM 503 (January 2023) p. 29. Petitioner's RSDI of \$2,205 is countable for AD-Care.

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 \$2,185.

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 applicable expenses were alleged.

Net income for AD-Care cannot exceed 100% of the federal poverty level (FPL). 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>5</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>6</sup> RFT 242 (April 2024) p. 1. Petitioner's countable income of \$2,185 exceeds the AD-Care income limit. Given

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<sup>3</sup> LIF eligibility is based on 54% of the federal poverty level (FPL) (see BEM 110). Ad-Care eligibility is based on 100% of the FPL (see BEM 163).

<sup>4</sup> 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.

<sup>5</sup> <https://www.healthcare.gov/glossary/federal-poverty-level-fpl/>

<sup>6</sup> MDHHS policy lists an income limit of \$1,275 was noting the \$20 disregard is factored into the limit.

the evidence, MDHHS properly determined Petitioner to be ineligible for MA under any Group 1 MA category other than Plan First.<sup>7</sup>

Though Petitioner is ineligible for MA benefits under AD-Care or any other unlimited coverage 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.* For caretakers of children, G2C is the applicable Group 2 MA category (see BEM 135).<sup>8</sup>

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.*

BEM 536 outlines a 16-step procedure for determining a client's income for purposes of G2C eligibility:

- Step 1 Determine countable employment income using BEM 500 and BEM 530.
- Step 2 Deduct \$90 from each member's employment income.
- Step 3 Subtract \$30 + 1/3 of a group member's employment income if the person received FIP or LIF benefits in any one of the four previous months.
- Step 4 Subtract \$200 from any remaining employment income if member has dependent care expenses.
- Step 5 Determine countable child support income using BEM 500 and BEM 530.
- Step 6 Subtract \$50 for countable child support income.
- Step 7 Determine countable unearned income using BEM 500 and BEM 530.
- Step 8 Add countable earned and unearned income.
- Step 9 Subtract child support paid by a group member (not to exceed the monthly obligation).
- Step 10 Subtract \$83 if client has court-appointed guardian paid by a group member. The result is the group's total net income.
- Step 11 Determine the number of dependents. A spouse and children under 18 are dependents.
- Step 12 Add 2.9 to the number of dependents to determine the prorated divisor.
- Step 13 Divide the prorated divisor into each group member's income to determine each member's prorated share of income.
- Steps 14-16 Applicable for non-parent caretakers.

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<sup>7</sup> Presumably, Petitioner's group's income is within the income guidelines to receive the limited coverage MA category of Plan First. The Plan First income limit is 195% of the FPL. BEM 124 (July 2023) p. 2.

<sup>8</sup> As a disabled individual, Petitioner is potentially eligible for a Group 2-Spenddown deductible (G2S). G2S eligibility will not be considered because the deductible (\$1,635) is higher than the G2C deductible.

The adult's net income for purposes of G2C is calculated by adding the following and subtracting insurance premiums, remedial services, and ongoing medical expenses:

- 2.9 x adult's prorated income (if adult has dependents)
- 3.9 x spouse's prorated income
- Prorated share of adult's income

Petitioner's only income derived from gross monthly RSDI of \$2,205. No child support or guardian expenses were applicable. Petitioner was a caretaker to three minor children.<sup>9</sup> A prorated divisor of 5.9 results from adding the number of minor children to 2.9. Dividing 5.9 into the countable income results in \$373 for Petitioner's prorated share of income.

Because there is no spouse, the prorated share of Petitioner's income is multiplied by 2.9 to determine Petitioner's share of her own income: this amount is \$1,081. The only applicable expense was a Medicare premium of \$174.70 which is subtracted from \$1,081 resulting in a net income of \$906 (dropping cents).

A client's G2C 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 from a net income of \$906 results in a deductible of \$531: MDHHS calculated the same deductible. Exhibit B, p. 5. The evidence established that MDHHS properly calculated Petitioner's MA eligibility.

Petitioner also requested a hearing to dispute a termination of MSP benefits. A Health Care Coverage Determination Notice dated June 27, 2024, stated that Petitioner's MSP eligibility would end May 2024 due to excess income. Exhibit A, pp. 7-9.

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.*

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<sup>9</sup> Petitioner testified she is the caretaker to 2 minor children who are girls, and a biological son. A second biological son, aged 19, is not factored in the determination due to age.

As an MA-SSI program, the same income rules that apply for Medicaid through AD-Care also apply for MSP. Thus, Petitioner's gross monthly income for MSP is \$2,205. Also, the only applicable deduction is the \$20 disregard resulting in a net countable income of \$2,185. As an unmarried individual, Petitioner's group size is one.

Income eligibility exists for MSP when net income is within the limits in RFT 242 or 247. *Id.*, p. 8. The highest income limit for any MSP category for a group size of one person is \$1,724.25. 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.

### **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 ineligible for MSP beginning May 2024 and eligible only for the limited coverage of Plan First and Medicaid subject to a \$531 monthly deductible beginning May 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**

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**Interested Parties**

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**Petitioner**

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