



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

MARLON I. BROWN, DPA
DIRECTOR

[REDACTED], MI [REDACTED]

Date Mailed: September 18, 2024
MOAHR Docket No.: 24-008832
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 September 11, 2024. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Kenitha Brown, specialist.

ISSUES

The first issue is whether MDHHS properly determined Petitioner's Medicare Savings (MSP) eligibility.

The second issue is whether MDHHS properly determined Petitioner's Medical Assistance (MA) 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 June 6, 2024, MDHHS determined Petitioner was eligible for the limited-coverage category of Plan First beginning July 2024. MDHHS also determined that Petitioner was eligible for Medicaid subject to a monthly deductible of \$405 beginning July 2024.

2. On July 26, 2024, Petitioner submitted to MDHHS an application for MA benefits and reported being 19-65 years of age, disabled, not pregnant, unmarried, a Medicare recipient, and a caretaker to a minor child.
3. As of July 2024, Petitioner received gross monthly Retirement, Survivors, Disability Insurance (RSDI) of \$1,332 (dropping cents).
4. On July 30, 2024, MDHHS determined Petitioner was ineligible for MSP in July 2024 due to not meeting the basic criteria for the program. MDHHS also determined that Petitioner was eligible for MSP benefits beginning August 2024.
5. On July 31, 2024, Petitioner requested a hearing to dispute Medicaid eligibility and MSP benefit termination.

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 MSP benefits. Exhibit A, pp. 3-4. A Health Care Coverage Determination Notice dated July 30, 2024, stated that Petitioner was ineligible for MSP in July 2024, though eligible beginning August 2024. Exhibit A, pp. 14-17. The stated reason for MSP ineligibility was not meeting the basic criteria for the program. *Id.*

To receive MSP, a person must be entitled to Medicare Part A. BEM 165 (July 2024) p. 1. Financial (income and assets) and other nonfinancial eligibility factors (residency, citizenship, identity...) must also be met. *Id.*, p. 2.

MDHHS acknowledged that Petitioner met the basic criteria for MSP benefits and that a termination of benefits was improper. Based on MDHHS's acknowledgement, it is found that MDHHS improperly terminated Petitioner's MSP eligibility for July 2024. As a remedy, MDHHS will be ordered to reinstate MSP benefits.

Petitioner also requested a hearing to dispute a determination of MA benefits. Exhibit A, pp. 3-4. MDHHS testified that a Health Care Coverage Determination Notice dated June 6, 2024, stated that Petitioner was eligible beginning July 2024 for the limited-coverage category of Plan First and Medicaid subject to a monthly deductible of \$405.

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.¹ *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, 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.*

Petitioner applied for MA benefits on July 26, 2024, and reported being disabled, 21-65 years of age, not pregnant, a Medicare recipient, and a caretaker to minor children. Exhibit A, pp. 7-13. 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, the category with the higher income limit will be considered first.²

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 \$1,332. Generally, MDHHS counts the gross amount of RSDI in determining Medicaid eligibility.³ BEM 503 (January 2023) p. 29. Petitioner's RSDI of \$1,332 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.

¹ Eligibility factors for all MA categories are found in the Bridges Eligibility Manual from BEM 105 through BEM 174.

² 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).

³ 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.

BEM 541 (July 2019) p. 3. Subtracting the \$20 disregard from Petitioner's RSDI results in countable income of \$1,312.

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 \$15,060.⁴ Dividing the annual FPL by 12 results in a monthly income limit of \$1,255. The same income limit is found in policy.⁵ RFT 242 (April 2024) p. 1. Petitioner's countable income of \$1,312 exceeds the AD-Care income limit. Given the evidence, MDHHS properly determined Petitioner to be ineligible for MA under any Group 1 MA category other than Plan First.⁶

Concerning the MAGI category of LIF, group members include the applicant and tax dependents. BEM 211 (October 2023) p. 1. Presumably Petitioner's child was a tax dependent and the group size would be two persons.

MAGI-based income means income calculated using the same financial methodologies used to determine modified adjusted gross income as defined in section 36B(d)(2)(B) of the Code.⁷ 42 CFR 435.603(e). For individuals who have been determined financially-eligible for Medicaid using the MAGI-based methods set forth in this section, a State may elect in its State plan to base financial eligibility either on current monthly household income and family size or income based on projected annual household income and family size for the remainder of the current calendar year. 42 CFR 435.603(h). MDHHS has chosen to determine HMP eligibility based on current monthly income.⁸

Modified adjusted gross income can be defined as a household's adjusted gross income with any tax-exempt interest income and certain deductions added back.⁹ Common deductions and disregards which should be factored in determining a person's adjusted gross income include alimony payments, unreimbursed business expenses, Health Savings Account (e.g., 401k) payments, and student loan interest.¹⁰

⁴ <https://www.healthcare.gov/glossary/federal-poverty-level-fpl/>

⁵ MDHHS policy lists an income limit of \$1,275 while noting the \$20 disregard is factored into the limit.

⁶ 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.

⁷ Income exceptions are made for lump-sums which are counted as income only in the month received; scholarships, awards, or fellowship grants used for education purposes and not for living expenses; and various exceptions for American Indians and Alaska natives. No known exceptions are applicable to the present case.

⁸ https://www.michigan.gov/documents/mdhhs/SPA_17-0100_Approved_638230_7.pdf

⁹ <https://www.investopedia.com/terms/a/agi.asp>

¹⁰ *Id.*

Petitioner's RSDI of \$1,332 is countable for MAGI (see BEM 503). No relevant expenses were alleged.

Adults with a dependent child and income under 54% of the FPL will be considered LIF eligible. Also, MDHHS applies a 5% disregard to the income limit when the disregard is the difference between eligibility and non-eligibility. BEM 500 (July 2017) p. 5. Thus, LIF income limits are functionally 59% of the FPL. The 2024 FPL for a 1-person group residing in Michigan is \$20,440.¹¹ Multiplying the FPL by 59% results in an income limit of \$12,059.60 (\$1,004.97 per month). Petitioner's benefit group's MAGI exceeded the income limit.

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).¹²

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).

¹¹ <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>

¹² As a disabled individual, Petitioner is potentially eligible for a Group 2-Spenddown deductible (G2S). G2S eligibility will not be considered because the estimated deductible (\$904) is higher than the G2C deductible.

- 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 prorate 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.

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 \$1,332. No child support or guardian expenses were applicable. Petitioner was a caretaker to a minor child. A prorated divisor of 3.9 results from adding the number of minor children to 2.9. Dividing 5.9 into the countable income results in \$341 (dropping cents) 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 \$988. The only applicable expense was a Medicare premium of \$174.70 which is subtracted from \$988 resulting in a net income of \$813 (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 \$408. RFT 240 (December 2013) p. 1.

Subtracting the PIL from a net income of \$813 results in a deductible of \$405: MDHHS calculated the same deductible. Exhibit A, p. 8. The evidence established that MDHHS properly calculated Petitioner's MA eligibility.

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 eligible for the limited coverage of Plan First and Medicaid subject to a \$405 monthly deductible beginning July 2024. Concerning Medicaid, the actions taken by MDHHS are **AFFIRMED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly terminated Petitioner's MSP eligibility. MDHHS is ordered to commence the following actions within 10 days of the date of mailing of this decision:

- (1) Reinstate Petitioner's MSP eligibility beginning July 2024; and
- (2) Issue notice and benefit supplements, if any, in accordance with policy.

The actions taken by MDHHS are **REVERSED**.

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

Chelsea McCune
Macomb County DHHS Warren Dist.
13041 E 10 Mile
Warren, MI 48089

MDHHS-Macomb-20-Hearings@michigan.gov

Interested Parties

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