



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LANSING

MARLON I. BROWN, DPA  
DIRECTOR

[REDACTED], MI

Date Mailed: October 2, 2024  
MOAHR Docket No.: 24-009117  
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 September 18, 2024. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Rebecca Scott, specialist.

### **ISSUE**

The 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. As of April 2024, Petitioner was an ongoing recipient of Medicaid and Medicare.
2. As of April 2024, Petitioner received gross monthly Retirement, Survivors and Disability Insurance (RSDI) of \$1,483.70.
3. On April 2024, Petitioner was over 65 years of age, a Medicare recipient, not a caretaker to minor children, unmarried, and not pregnant.
4. On April 1, 2024, MDHHS determined Petitioner to be eligible for the limited-coverage Medicaid category of Plan First and Medicaid subject to a \$914 monthly deductible beginning May 2024.

5. On April 5, 2024, MDHHS ran an asset detection report which discovered Petitioner had savings and checking accounts with Huntington Bank, one of which was the account in which Petitioner's RSDI was deposited.
6. On April 15, 2024, MDHHS mailed Petitioner a Verification Checklist (VCL) requesting proof of checking and savings accounts by April 25, 2024.
7. On April 26, 2024, MDHHS determined Petitioner was ineligible for MSP beginning May 2024 due to failing to verify information and excess income.
8. On July 22, 2024, Petitioner requested a hearing to dispute Medicaid and MSP eligibility.
9. On August 7, 2024, Petitioner again requested a hearing to dispute Medicaid and MSP eligibility.

### **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 Medicaid eligibility. Exhibit A, pp. 3-18. A Health Care Coverage Determination Notice dated April 1, 2024, stated that Petitioner was eligible, beginning May 2024, for Medicaid subject to a monthly deductible of \$914 and the limited-coverage MA category of Plan First. Exhibit B, pp 1-5.

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>1</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

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

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.*

It was not disputed that Petitioner became eligible for Medicare after turning 65 years in March 2024. It was also not disputed that Petitioner was not pregnant or a caretaker to a minor child. Under the circumstances, Petitioner is ineligible for all MAGI-related categories. As an aged individual, Petitioner is potentially eligible to receive MA under the SSI-related category of Aged/Disability-Care (AD-Care). BEM 163 outlines the procedures for determining income eligibility under AD-Care.

At all relevant times, Petitioner was without minor children and did not reside with a spouse. 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 income of \$1,483 (dropping cents). Generally, MDHHS counts the gross amount of RSDI in determining Medicaid eligibility.<sup>2</sup> BEM 503 (January 2023) p. 29. Petitioner's countable income for AD-Care is \$1,483.

MDHHS 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 (April 2024) p. 29. Petitioner did not allege any relevant budget expenses or credits.

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 (January 2024) p. 3. Subtracting the \$20 disregard results in countable income of \$1,463.

Net income for AD-Care cannot exceed 100% of the federal poverty level 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>3</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>4</sup> RFT 242 (April 2023) p. 1. Petitioner's monthly MAGI of \$1,463 exceeds the AD-Care income limit. Presumably, Petitioner's group's income is within the income guidelines to receive the limited

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<sup>2</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 to the present case.

<sup>3</sup> <https://www.healthcare.gov/glossary/federal-poverty-level-fpl/>

<sup>4</sup> MDHHS policy lists an income limit of \$1,275 was noting the \$20 disregard is factored into the limit.

coverage MA category of Plan First.<sup>5</sup> Given the evidence, MDHHS properly determined Petitioner to be ineligible for MA under AD-Care or any other Group 1 MA category with unlimited coverage.

Though Petitioner is ineligible for MA benefits under AD-Care or any other Group 1 category offering unlimited MA coverage, 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 aged/disabled persons, G2S is the applicable Group 2 MA category (see BEM 166).

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.*

Petitioner's RSDI of \$1,483 is unchanged for G2S. MDHHS inexplicably factored an RSDI of \$1,309. For purposes of this decision, the lower (and more favorable for Petitioner) RSDI amount of \$1,309 will be accepted as correct.

The G2S budget allows a \$20 disregard for unearned income and various employment income disregards. COLA is also applicable for January, February, and March budget months. In addition to AD-Care disregards, the G2S budget factors ongoing medical expenses (which are applied toward a deductible), insurance premiums, and remedial services. MDHHS credited Petitioner with a \$20 disregard; no other expenses were alleged.

A client's 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 (\$375) and \$20 unearned income disregard from Petitioner's countable RSDI of \$1,309 results in a monthly deductible of \$914. MDHHS calculated the same deductible. Exhibit A, p. 28. Given the evidence, MDHHS properly determined Petitioner's Medicaid eligibility.

Petitioner also requested a hearing to dispute a termination of MSP benefits. Exhibit A, pp. 3-18. A Health Care Coverage Determination Notice dated April 26, 2024, stated that Petitioner's MSP eligibility would end May 2024 due to a failure to verify

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<sup>5</sup> The Plan First income limit is 195% of the FPL. BEM 124 (July 2023) p. 2.

information.<sup>6</sup> Exhibit A, pp. 20-23. MDHHS specified that Petitioner allegedly failed to verify savings and checking account balances discovered from an asset detection report.

MDHHS will utilize an asset verification program to electronically detect unreported assets belonging to applicants and beneficiaries. BEM 400 (April 2024) p. 2. Asset detection may include the following sources at financial institutions: checking, savings, and investment accounts, IRAs, treasury notes, certificates of deposit (CDs), annuities and any other asset that may be held or managed by a financial institution. *Id.*

For MSP eligibility, countable assets may not exceed the asset limit of BEM 400.<sup>7</sup> BEM 165 (October 2022) p. 8. Because assets are relevant to MSP eligibility, verification of assets may be requested.

For all programs, MDHHS is to inform the client what verification is required, how to obtain it, and the due date. BAM 130 (January 2023) p. 2. MDHHS is to use the DHS-3503, Verification Checklist (VCL), to request verification. *Id.* For MA, MDHHS is to allow the client 10 calendar days to provide the verification that is requested. *Id.*, p. 7. MDHHS may send a negative action notice when:

- The client indicates refusal to provide a verification, or
- The time period given has elapsed. *Id.*

MDHHS sent Petitioner a VCL on April 5, 2024, requesting proof of Petitioner's savings and checking accounts by April 15, 2024. Exhibit A, pp. 30-31. It was not disputed that Petitioner had multiple savings and checking accounts. MDHHS acknowledged that Petitioner verified accounts with Navy Federal. Exhibit A, p. 22. It was not disputed that Petitioner failed to verify accounts with Huntington Bank.<sup>8</sup>

When MDHHS requests accounts from an asset detection report, it is sometimes expected that MDHHS name the accounts on the VCL. Naming accounts is apt when a client is reasonably unaware of the accounts. In the present case, Petitioner testified that the unverified accounts were associated with monthly deposits from Social Security Administration. Because an unverified account was Petitioner's account for direct deposit, Petitioner cannot reasonably claim any surprise by the VCL request.

The evidence established that MDHHS properly requested proof of Petitioner's assets. The evidence further established that Petitioner failed to verify the accounts. Thus,

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<sup>6</sup> The notice also stated that Petitioner had excess income for MSP. This basis for termination was not considered and appeared to be incorrect based on income limits for MSP (see RFT 242). Also, MDHHS sent notice on July 19, 2024, stating that Petitioner was ineligible for MSP due to failing to meet the basic criteria. Exhibit A, pp. 5-6.

<sup>7</sup> Effective April 2024, the MSP asset limit for a one-person group is \$9,430. BEM 400 (April 2024) p. 8.

<sup>8</sup> A Bank of America was allegedly also unverified. Petitioner testified the account was closed, though verification of account closure was not submitted. For purposes of this decision, it will be accepted that Petitioner did not need to verify a closed bank account because only "current" bank statements were requested.

MDHHS properly terminated Petitioner's MSP eligibility due to a failure of verify assets. Petitioner's recourse is to reapply and verify assets.

**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 Medicaid subject to a \$914 monthly deductible beginning May 2024. MDHHS also properly determined Petitioner to be eligible for the limited coverage MAGI category of Plan First beginning May 2024. MDHHS additionally properly determined Petitioner ineligible for MSP beginning May 2024 due to a failure to verify information. The actions of 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**

BSC4  
M. Schaefer  
EQAD  
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**Via-First Class Mail :**

**Petitioner**

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