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GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

MARLON I. BROWN, DPA
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: September 24, 2024
MOAHR Docket No.: 24-009243
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 10, 2024. Petitioner testified and was unrepresented. [REDACTED] [REDACTED] Petitioner spouse (hereinafter, "Spouse"), testified on behalf of Petitioner. The Michigan Department of Health and Human Services (MDHHS) was represented by Shyla Coleman, specialist. Aja Ismail, specialist, observed the hearing.

ISSUE

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

The second issue is whether MDHHS properly terminated 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. As of January 2024, Petitioner and Spouse were ongoing recipients of MA benefits.
2. As of January 2024, Petitioner and Spouse were over 65 years of age and/or disabled, Medicare recipients, not a caretaker to minor children, married, and not pregnant.

3. As of January 2024, Petitioner and Spouse received respective gross monthly Retirement, Survivors and Disability Insurance (RSDI) of \$627.70 and \$1,650.70.
4. As of January 2024, Spouse received gross monthly retirement benefits of \$210.55.
5. On July 23, 2024, MDHHS determined that Petitioner and Spouse were eligible for the limited-coverage MA category of Plan First beginning August 2024.
6. On an unspecified date, MDHHS determined Petitioner and Spouse were each eligible for Medicaid subject to a monthly deductible of \$1,618.
7. On August 6, 2024, MDHHS determined that Petitioner and Spouse were ineligible for MSP benefits beginning January 2024.
8. On August 7, 2024, Petitioner requested a hearing to dispute the determination of MA and 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 Medicaid benefits. Exhibit A, pp. 3-4. MDHHS testified that a Health Care Coverage Determination Notice dated July 23, 2024, stated that Petitioner and Spouse were eligible only for the limited-coverage MA category of Plan First beginning August 2024. MDHHS also testified that Petitioner and Spouse were eligible for full-coverage Medicaid subject to a monthly deductible of \$1,680.

Medicaid is also known as MA. BEM 105 (January 2024) 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.*

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

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.*

During the hearing, the testimony suggested that Petitioner and Spouse were both Medicare recipients, disabled and/or over the age of 65 years, not pregnant, and not a caretaker to minor children. Given the circumstances, Petitioner and Spouse are ineligible for all MAGI-related categories. As a disabled and/or aged individual, Petitioner and Spouse are 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 and Spouse were married. For adults receiving SSI-related MA, Petitioner's and Spouse's group size is two. BEM 211 (October 2023) p. 8.

As of the disputed benefit month, Petitioner and Spouse received respective gross monthly RSDI of \$627.70 and \$1,650.70. Generally, MDHHS counts the gross amount of RSDI in determining Medicaid eligibility.² BEM 503 (January 2023) p. 29. Spouse also received \$210.55 in gross monthly retirement benefits. MDHHS counts gross retirement income in determining SSI-related MA eligibility. *Id.*, p. 29. Adding the group's RSDI and retirement income results in a total gross monthly income of \$2,488 (dropping cents).

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 \$2,468.

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 (January 2024) pp. 30-31. No credits were applicable.

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 2-person group residing in Michigan is \$20,440.³ Dividing the annual amount by 12 results in a monthly income

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.

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

limit of \$1,703.50 (rounding to nearest half dollar). The same income limit is found in policy.⁴ RFT 242 (April 2024) p. 1. Petitioner's group's countable income exceeds the AD-Care income limit. Presumably, Petitioner's group's income (\$2,468) is within the income guidelines to receive the limited coverage MA category of Plan First.⁵ Given the evidence, MDHHS properly determined Petitioner to be ineligible for MA under AD-Care or any other unlimited-coverage Group 1 category.

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 income of \$2,488 is unchanged for G2S. 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 and two Medicare premiums each costing \$175.

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 \$500. RFT 240 (December 2013) p. 1.

Subtracting the PIL (\$500), \$350 for insurance premiums, and \$20 unearned income disregard from Petitioner's countable RSDI of \$2,488 results in a monthly deductible of \$1,618. MDHHS calculated the same deductible. Thus, MDHHS properly determined Petitioner's and Spouse's Medicaid eligibility.

Petitioner also requested a hearing to dispute a termination of MSP benefits. Exhibit A, pp. 3-4. A Health Care Coverage Determination Notice dated August 6, 2024, stated

⁴ MDHHS policy lists an income limit of \$1,723.50 while noting that the \$20 disregard is already factored.

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

that Petitioner's and Spouse's MSP eligibility stopped January 2024 due to excess income.⁶ Exhibit A, pp. 7-9.

MSP is an SSI-related Medicaid category. BEM 165 (July 2024) p. 1. One of four different subprograms are available under MSP. Qualified Medicare Beneficiaries (QMB) coverage pays for a client's Medicare premiums, coinsurances, and deductibles. *Id.*, 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.* Non-Categorically Eligible Michigan Beneficiaries (NMB) cover a client's premium for full-coverage Medicaid beneficiaries not otherwise eligible for MSP. *Id.*

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. *Id.*, p. 8. 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 MA-SSI program, the same income rules that applied above to Group 1 Medicaid also apply to MSP. Thus, Petitioner's gross monthly income for MSP is \$2,488. Also, the only applicable deduction is the \$20 disregard resulting in a net countable income of \$2,468. Also, as married individuals, Petitioner's and Spouse's group size is two.

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 two persons is \$2,319.50 RFT 242 (April 2024) p. 1. Petitioner's group's countable income exceeds the highest income limit for MSP eligibility. Thus, MDHHS properly terminated Petitioner's and Spouse's MSP eligibility due to excess income.

⁶ MDHHS provided no explanation why the notice concerned eligibility from seven months earlier. Also, the notice stated that Petitioner and Spouse were ineligible for MSP due to not meeting basic criteria; there was no evidence that this was a proper basis for ineligibility.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly determined Petitioner and Spouse to be eligible for the limited-coverage category of Plan First and Medicaid subject to a \$1,618 monthly deductible beginning August 2024. MDHHS also properly terminated Petitioner's and Spouse's MSP eligibility beginning January 2024. 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

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Via-First Class Mail :

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