



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

MARLON I. BROWN, DPA
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: October 1, 2024
MOAHR Docket No.: 24-009320
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 26, 2024. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Sunshine Simonson, 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 January 2024, Petitioner received gross monthly Retirement, Survivors and Disability Insurance (RSDI) of \$1,336.
2. On February 28, 2024, MDHHS determined Petitioner was ineligible for Medicare Savings Program (MSP) benefits in November 2023, though eligible for MSP beginning December 2024. MDHHS also determined Petitioner was eligible for the limited-coverage MA category of Plan First and Medicaid subject to a monthly deductible of \$725 beginning January 2024 and a deductible of \$766 beginning April 2024.

3. On August 5, 2024, Petitioner requested a hearing to dispute the determination of MA benefits and MSP ineligibility from November 2023.
4. On August 19, 2024, MDHHS determined Petitioner was eligible for Medicaid subject to a \$941 deductible.

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 MSP eligibility. Exhibit A, pp. 3-5. A Health Care Coverage Determination Notice dated February 28, 2024, stated that Petitioner was ineligible for MSP benefits in November 2023, but eligible for MSP beginning December 2023. Exhibit A, pp. 13-17. Presumably, Petitioner only disputed MSP ineligibility from November 2023

A client's request for hearing must be received in the MDHHS local office within 90 days of the date of the written notice of case action. BAM 600 (February 2024) p. 6. For all programs except FAP benefits, hearing requests must be submitted to MDHHS in writing. *Id.*, p. 2.

Petitioner requested a hearing on August 5, 2024: 159 days after written notice of the disputed MDHHS action was mailed. Thus, Petitioner's hearing request was untimely and there is no administrative hearing jurisdiction to address Petitioner's dispute over MSP. Concerning MSP, Petitioner's hearing request will be dismissed.

Petitioner also requested a hearing to dispute a determination of MA benefits. Exhibit A, pp. 3-5. A Health Care Coverage Determination Notice dated February 28, 2024, stated that Petitioner was eligible for limited- coverage MA category of Plan First and Medicaid subject to a monthly deductible of \$766 beginning April 2024.¹ Exhibit A, pp. 13-17.

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

¹ Petitioner was found eligible for a deductible of \$725 beginning January 2024.

women, former foster children, MOMS, MICHild and Healthy Michigan Plan is based on Modified Adjusted Gross Income (MAGI) methodology.² *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.*

It was not disputed that Petitioner was disabled, 19-65 years of age, a Medicare recipient, unmarried, not a caretaker to a child under 18 years, and not pregnant. Under the circumstances, Petitioner is potentially only 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 (July 2019) p. 8.

It was not disputed that Petitioner's received gross monthly RSDI of \$1,336 (dropping cents).³ Generally, MDHHS counts the gross amount of RSDI in determining Medicaid eligibility.⁴ BEM 503 (January 2023) p. 29. Petitioner's countable income for AD-Care is \$1,336.

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 2019) 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 (July 2019) p. 3. Subtracting the \$20 disregard results in countable income of \$1,316.

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

³ Petitioner testified that RSDI increased in April 2024 after her spouse passed away.

⁴ 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.

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 \$15,060.⁵ Dividing the annual FPL by 12 results in a monthly income limit of \$1,255. The same income limit is found in policy.⁶ RFT 242 (April 2023) p. 1. Petitioner's countable income of \$1,336 exceeds the AD-Care income limit. Presumably, Petitioner's group's income is within the income guidelines to receive the limited coverage MA category of Plan First.⁷ Given the evidence, MDHHS properly determined Petitioner to be ineligible for MA under AD-Care or any other unlimited-coverage Group 1 MA 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 gross countable income of \$1,336 is unchanged for G2S. The G2S budget allows a \$20 disregard for unearned income and various employment income disregards. The G2S budget also factors ongoing medical expenses (which are applied toward a deductible), insurance premiums, and remedial services. MDHHS credited Petitioner \$175 for a monthly Medicare premium beginning April 2024.

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.

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

⁶ MDHHS policy lists an income limit of \$1,275 while noting the \$20 disregard is factored into the income limit.

⁷ The Plan First income limit is 195% of the FPL. BEM 124 (July 2023) p. 2.

Subtracting the PIL (\$375), insurance premium (\$175), and \$20 disregard from Petitioner's countable income of \$1,336 results in a monthly deductible of \$766; MDHHS calculated the same deductible.⁸ Exhibit A, p. 10

MDHHS sent Petitioner notice of a \$941 monthly deductible beginning September 2024 on August 19, 2024. Exhibit A, pp. 20-23. MDHHS properly increased the deductible by \$175 after removing the Medicare premium credit from the budget because MDHHS was paying Petitioner's premium through MSP. Exhibit A, p. 11.

Petitioner testified she is a cancer survivor with "a thousand diseases" and multiple mental health challenges. Petitioner's testimony was sincere but had no bearing on income eligibility for MA benefits. Given the evidence, MDHHS properly determined Petitioner's MA eligibility.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner untimely requested a hearing to dispute MSP eligibility from November 2023. Concerning MSP, Petitioner's hearing request is **DISMISSED**.

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 \$766 monthly deductible and the limited-coverage category of Plan First beginning April 2024. MDHHS also properly determined Petitioner to be eligible for a \$941 deductible beginning September 2024. The actions of MDHHS are **AFFIRMED**.

CG/nr



Christian Gardocki

Administrative Law Judge

⁸ Presumably, Petitioner's deductible of \$725 beginning January 2024 was calculated the same except for applying a COLA disregard for the months of January through March 2024.

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
Tara Roland 82-17
Wayne-Greenfield/Joy-DHHS
8655 Greenfield
Detroit, MI 48228
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Interested Parties

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Via-First Class Mail :

Petitioner

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