



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

MARLON BROWN  
DIRECTOR

[REDACTED]  
MI [REDACTED]

Date Mailed: September 20, 2024  
MOAHR Docket No.: 24-009431  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler**

### **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 telephone hearing was held on September 18, 2024. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Jacob Frankmann, Assistance Payments Supervisor.

### **ISSUE**

Did the Department properly determine Petitioner's Medical Assistance (MA) Program 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. Petitioner has been an ongoing MA recipient and was previously enrolled in the Freedom to Work (FTW) MA category.
2. On May 24, 2024, the Department received Petitioner's completed Mid-Certification Contact Notice for the Food Assistance Program (FAP) indicating she had a change in income by \$1,600.00 and had started a job at [REDACTED] in March 2024. This completed form prompted updates to Petitioner's MA benefits.
3. Petitioner receives a Retirement Survivors Disability Insurance (RSDI) benefit of \$ [REDACTED] per month and has a Medicare Part B premium of \$174.70 per month which was activated effective August 2024.

4. From May 20, 2024 through August 20, 2024 (the 90-day period before the Department's determination of MA eligibility) Petitioner had the following verified wages:

May 24, 2024	\$	[REDACTED]
May 31, 2024	\$	[REDACTED]
June 7, 2024	\$	[REDACTED]
June 14, 2024	\$	[REDACTED]
June 21, 2024	\$	[REDACTED]
June 28, 2024	\$	[REDACTED]
July 5, 2024	\$	[REDACTED]
July 12, 2024	\$	[REDACTED]
July 19, 2024	\$	[REDACTED]
July 26, 2024	\$	[REDACTED]
August 2, 2024	\$	[REDACTED]
August 9, 2024	\$	[REDACTED]

5. Petitioner is [REDACTED] years old and single.
6. On August 2, 2024, the Department issued a Verification Checklist (VCL) to Petitioner requesting verification of Petitioner's checking account and 401(k) by August 12, 2024.
7. Petitioner provided the requested verifications.
8. On August 13, 2024, the Department received Petitioner's request for hearing disputing the Department's failure to process her MA eligibility.
9. On August 19, 2024, the Department issued a Health Care Coverage Determination Notice (HCCDN) to Petitioner informing her that she was eligible for Medicare Savings Program (MSP) Non-Categorically Eligible Michigan Beneficiaries (NMB) benefits for August 2024, but that she was ineligible for July and September, ongoing because she did not meet basic criteria. The Department also determined that she was ineligible for MA benefits effective September 2024 because she was not under 21, pregnant, a caretaker of a minor child, not in foster care at age 18 in Michigan, not blind, not disabled, not over 65, and had income greater than the income limits for Healthy Michigan Plan (HMP) and Plan First (PF).
10. On September 9, 2024, the Department issued another HCCDN to Petitioner advising her that effective September 1, 2024, she was eligible for MA with a deductible of \$2,186.00 (under the Group 2-Aged, Blind, Disabled (G2S) category).
11. The parties agreed at the hearing to address the HCCDNs issued after Petitioner's request for hearing.

## **CONCLUSIONS OF LAW**

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The Medical Assistance (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. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

In this case, Petitioner disputes the Department's determination of MA eligibility. MA is available (i) under SSI-related categories to individuals who are aged (65 or older), blind or disabled, (ii) to individuals who are under age 19, parents or caretakers of children, or pregnant or recently pregnant women, (iii) to individuals who meet the eligibility criteria for Healthy Michigan Plan (HMP) coverage, and (iv) to individuals who meet the eligibility criteria for Plan First Medicaid (PF-MA) coverage. 42 CFR 435.911; 42 CFR 435.100 to 435.172; BEM 105 (January 2024), p. 1; BEM 137 (January 2024), p. 1; BEM 124 (July 2023), p. 1. HMP is a MAGI-related MA category that provides MA coverage to individuals who (i) are 19 to 64 years of age; (ii) have income under the MAGI methodology at or below 133% of the federal poverty level (FPL); (iii) do not qualify for or are not enrolled in Medicare; (iv) do not qualify for or are not enrolled in other MA programs; (v) are not pregnant at the time of application; and (vi) are residents of the State of Michigan. BEM 137, p. 1; 42 CFR 435.603.

Petitioner was previously enrolled in the FTW MA category. FTW is an SSI-related Group 1(full coverage) MA category available to clients with disabilities that are age 16 to 64 who have earned income. BEM 174 (January 2020), p. 1. Because Petitioner is age ■■■, she is no longer eligible for FTW. In addition, Petitioner is a Medicare recipient and age ■■■; therefore, she is not eligible for HMP.

Because Petitioner is a recipient of RSDI and there was no evidence that Petitioner was the parent or caretaker of a minor child, Petitioner was potentially eligible for MA under the SSI-related categories of AD-care and Group 2-Aged, Blind, Disabled (G2S). In determining the SSI-related MA category Petitioner is eligible for, MDHHS must determine Petitioner's MA fiscal group size and net income. As an unmarried individual, Petitioner has fiscal group size for SSI-related MA purposes of one. BEM 211 (October 2023), p. 8.

The AD-Care program requires that net group income cannot exceed one hundred percent of the federal poverty level plus \$20.00. BEM 163, pp. 1-2. The 2024 federal

poverty level (FPL) for a one-person household was \$15,060 annually or \$1,255.00 per month. <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>. The net income limit is also established by subtracting \$20.00 from the income limits seen in RFT 242, \$1,255.00 for a group size of one effective April 1, 2024. RFT 242 (April 2024), p. 1; BEM 163 (July 2017), p. 2.

Countable income is calculated by adding the amounts of income actually received or reasonably anticipated within the month. BEM 530 (April 2020), p. 2. RSDI is considered countable income. BEM 503 (April 2024), pp. 29-30. Petitioner has total gross RSDI income of \$ [REDACTED]. Next, \$20.00 is subtracted for the general exclusion and Petitioner's Net Income is \$ [REDACTED]. BEM 541 (January 2024), p. 3. She also has variable employment income. In reviewing the 90 days of income prior to the Department's determination of eligibility, Petitioner has an average earned weekly income of \$ [REDACTED] for a standardized monthly income (average weekly income multiplied by 4.3) of \$ [REDACTED]. Petitioner then receives a disregard of \$65 plus ½ of the group's earned income (\$ [REDACTED]). No evidence was presented of any expenses for child support, work-related expenses, nor guardianship or conservator expenses. BEM 541, pp. 1-7. Petitioner's Net Income is \$ [REDACTED]. Petitioner is not eligible for the full coverage AD-Care program.

Since Petitioner has excess income for eligibility under the AD-Care program, the full coverage SSI-related MA program, an evaluation of Petitioner's eligibility for MA coverage under the Group 2-Aged, Blind, Disabled (G2S) follows. Group 2 provides MA coverage with a deductible. BEM 105, p. 1. The deductible is the amount that the client's net income (less any allowable deductions) exceeds the applicable Group 2 MA protected income level (PIL). PIL is a set allowance for non-medical need items such as shelter, food, and incidental expenses. BEM 544 (January 2020), p. 1. It is based on the client's MA fiscal group size and the county in which the client resides. *Id.* Petitioner resides in [REDACTED] County and has a group size of one; therefore, she is in shelter area VI, and her PIL is \$408.00. RFT 200 (April 2017), p. 3; RFT 240 (December 2013), p. 1. Thus, if Petitioner's monthly net income (less allowable needs deductions) is in excess of \$408.00, Petitioner is eligible for MA assistance under the G2S program with a deductible equal to the amount of income remaining after the appropriate and allowed deductions which is greater than \$408.00.

As discussed above, Petitioner's net income was \$ [REDACTED]. In calculating the deductible, allowances are made for health insurance premiums and remedial services. BEM 544, pp. 1-2. Petitioner is ineligible for MSP-ALMB as it has an income limit of 135% of FPL (\$20,331.00) and follows the same rules for calculating eligibility as AD-care. Therefore, she is responsible for her Medicare Part B premium of \$174.70. No evidence was presented of other insurance premiums or remedial services. Therefore, the PIL is subtracted to reach a deductible of \$2,918.00 (rounded to the nearest dollar). The Department has not met its burden of proof in establishing that it properly calculated Petitioner's G2S deductible for September 2024, ongoing of \$2,186.00.

The Department determined that Petitioner was ineligible for MSP, including NMB, because she did not meet basic criteria. The MSP is divided into four categories subcategories. BEM 165 (June 2024), p. 1. Qualified Medicare Beneficiary (QMB) is the full coverage MSP. BEM 165, p. 1. Specified Low-Income Medicare Beneficiary (SLMB) is a limited coverage MSP. *Id.* The third MSP category is the Additional Low-Income Medicare Beneficiary (ALMB). *Id.* The fourth category is Non-Categorically Eligible Michigan Beneficiaries (NMB) which provides coverage when income and assets are above the allowed limits for ALMB but the client has full coverage MA benefits with Medicare Part A and/or B entitlement. BEM 165, p. 1. QMB pays for Medicare premiums, coinsurances, and deductibles. BEM 165, p. 2. SLMB pays Medicare Part B premiums. *Id.* ALMB pays for Medicare Part B premiums if funding is available. *Id.* NMB pays the Medicare Part A and B premiums for full coverage MA beneficiaries not otherwise eligible for MSP.

As discussed above, Petitioner is not eligible for ALMB which has the greatest income limit. If Petitioner meets her deductible for G2S, she may be eligible for NMB benefits.

Finally, the Department determined that Petitioner is ineligible for PF because her income is greater than the income limit. PF MA is a MAGI-related limited coverage Medicaid group available to any United States citizen or individual with an immigration status entitling them to full Medicaid coverage (not emergency services only (ESO)) residing in Michigan whose fiscal group's MAGI income does not exceed 195% of the federal poverty level (FPL) and meets the other eligibility criteria. BEM 124 (July 2023), p. 1. There are no age or gender restrictions to PF-MA eligibility. BEM 124, p. 1. PF provides MA coverage for family planning services. See <https://www.michigan.gov/mdhhs/assistance-programs/healthcare/adults/planfirst>.

To determine Petitioner's PF-MA eligibility, a consideration of the fiscal group's size and income is required. BEM 124, pp. 1-2. An individual's group size for MAGI purposes requires consideration of the client's tax filing status. Again, Petitioner has a group size of one. BEM 211, pp. 1-2. 195% of the annual FPL in 2024 (the most current applicable FPL) for a household with one member is \$29,367.00. See <https://aspe.hhs.gov/poverty-guidelines>. Therefore, to be income eligible for PF-MA, Petitioner's annual income cannot exceed \$29,367.00 or \$2,447.25 per month.

For PF, income must be calculated in accordance with MAGI under federal tax law. MAGI is based on Internal Revenue Service rules and relies on federal tax information. BEM 500 (April 2022), pp. 3-4. Income is verified via electronic federal data sources in compliance with MAGI methodology. MREM, § 1. In determining an individual's eligibility for MAGI-related MA, the Department bases financial eligibility on current monthly household income. Centers for Medicare & Medicaid Services, *State Plan Amendment 17-0100 Approval Notice*, (March 19, 2018), p. 7. MAGI is calculated by reviewing the client's adjusted gross income (AGI) and adding it to any tax-exempt foreign income, tax-exempt Social Security benefits, and tax-exempt interest. HealthCare.gov, *Modified Adjusted Gross Income (MAGI)* < <https://www.healthcare.gov/glossary/modified-adjusted-gross-income-magi/>> (accessed <https://www.healthcare.gov/income-and->

household-information/how-to-report). AGI is found on IRS Tax Form 1040 at line 11. HealthCare.gov, *Modified Adjusted Gross Income (MAGI)* <<https://www.healthcare.gov/glossary/adjusted-gross-income-agi/>> (accessed August 29, 2024). Alternatively, it is calculated by taking the “federal taxable wages” for each income earner in the household as shown on the paystub or, if not shown on the paystub, by using gross income before taxes reduced by any money the employer takes out for health coverage, childcare, or retirement savings. HealthCare.gov, *Modified Adjusted Gross Income (MAGI)* <<https://www.healthcare.gov/income-and-household-information/how-to-report/>> (accessed August 29, 2024). However, when calculating MAGI in situations where income is difficult to predict because of unemployment, self-employment, commissions, or a work schedule that changes regularly, income should be estimated based upon past experiences, recent trends, possible changes in the workplace, and similar information. *Id.* See <https://www.healthcare.gov/income-and-household-information/how-to-report/>.

As discussed previously, Petitioner’s standardized monthly earned income is \$ [REDACTED] plus her RSDI benefit of \$ [REDACTED] for a total income of \$ [REDACTED]. Petitioner has a deduction for her Medicare Part B premium of \$174.70 but no other evidence was presented of deductions for health insurance premiums, childcare, retirement savings, or other item. Therefore, Petitioner’s MAGI is \$ [REDACTED]. Petitioner’s income is greater than the PF income limit and she is ineligible.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated Petitioner’s MA G2S deductible.

### **DECISION AND ORDER**

Accordingly, the Department’s decision is **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Recalculate Petitioner’s MA deductible effective September 1, 2024;
2. If otherwise eligible, issue MA coverage for Petitioner for benefits not previously received; and,

3. Notify Petitioner in writing of its decision.



AM/cc

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**Amanda M. T. Marler**  
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 :**

**Interested Parties**

MDHHS-Oakland-6303-Hearings  
BSC4-HearingDecisions  
EQADHearings  
M. Schaefer  
MOAHR

**Via-First Class Mail :**

**Petitioner**

[REDACTED]  
MI [REDACTED]