



GRETCHEN WHITMER  
GOVERNOR

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

MARLON BROWN  
DIRECTOR

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Date Mailed: October 18, 2024  
MOAHR Docket No.: 24-009478  
Agency No.: ██████████  
Petitioner: ██████████

**ADMINISTRATIVE LAW JUDGE: L. Alisyn Crawford**

**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 19, 2024. Petitioner was represented by her authorized hearing representative (AHR) and guardian, ██████████. The Department of Health and Human Services (Department) was represented by Dequindre Williamson, Assistance Payments Supervisor.

**ISSUE**

Did the Department properly determine 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. Petitioner was an ongoing recipient of MA under the Extended Care full coverage program.
2. Petitioner is █████ years old and disabled.
3. Petitioner has unearned income in the form of Retirement, Survivors, and Disability Insurance (RSDI) benefit payments in the gross amount of █████ per month.
4. On February 26, 2024, the Department received a redetermination application for Petitioner. (Exhibit A, pp. 11-17). On the application, Petitioner reported unearned income and monthly medical expenses for home care aid in the amount of \$200. (Exhibit A, p. 13).

5. On April 4, 2024, the Department sent a Health Care Coverage Determination Notice (HCCDN) to Petitioner informing her that she was approved for MA coverage subject to a monthly deductible of \$888, effective May 1, 2024 ongoing. (Exhibit A, pp. 19-22).
6. On August 15, 2024, the Department received a request for hearing from Petitioner disputing the Department's determination regarding her MA coverage. (Exhibit A, pp. 3-4).

### **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, the Department concluded that Petitioner was eligible for MA coverage under the Group 2 Aged, Blind, and Disabled (G2S) program with a monthly deductible of \$888 effective May 1, 2024. Petitioner's AHR disputes the Department's determination of Petitioner's eligibility for MA coverage and testified that Petitioner's circumstances remained the same. Petitioner previously had MA coverage under Extended Care MA.

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 Family Planning (PFFP) 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. Under federal law, an individual eligible under more than one MA category must have eligibility determined for the category selected and is entitled to the most beneficial coverage available, which is the one that results in eligibility and the least amount of excess income or the lowest cost share. BEM 105, p. 2; 42 CFR 435.404.

Because Petitioner was over age 65 and there was no evidence that Petitioner was the parent or caretaker of a minor child, Petitioner was eligible for MA under an SSI-related category. In determining the SSI-related MA category Petitioner is eligible for, the

Department must determine Petitioner's MA fiscal group size and net income. As an unmarried individual, Petitioner has a fiscal group size of one for SSI-related MA purposes. BEM 211 (October 2023), p. 8.

Here, prior to her redetermination, Petitioner was receiving MA under the Extended Care program. Extended Care MA is an SSI-related Group 1 MA category. BEM 164 (July 2020), p. 1. This category is available only to L/H and waiver clients who are aged (65 or older), blind or disabled. BEM 164, p. 1. An L/H patient is a MA client who was in the hospital and/or long-term care facility (LTC) in a hospital and/or long-term care facility (L/H) month. BPG Glossary (June 2024), p. 39. A waiver refers to a home and community-based waiver, such as MI Choice. BPG Glossary, p. 74. The MI Choice Waiver Program provides home and community-based services for aged and disabled persons who, if they did not receive such services, would require care in a nursing home. BEM 106 (October 2022), p. 1. The MI Choice waiver is not an MA category, but there are special eligibility rules for people approved for the waiver. BEM 106, p. 1. The Medical Services Administration (MSA) administers the waiver through contracts with Pre-paid Ambulatory Health Plans. BEM 106, p. 1. The local MDHHS office is responsible for completing an initial asset assessment and determining MA eligibility for potential waiver participants. BEM 106, p. 3

At the hearing, the Department did not provide any evidence of why Petitioner was no longer approved for MA coverage under the Extended Care program. The Department assessed Petitioner's eligibility for MA under other MA categories and determined that Petitioner was eligible for Group 2 SSI-related (G2S) MA with a monthly \$888 deductible. Petitioner's AHR testified that Petitioner's circumstances remained the same in terms of her income and care needs. Petitioner's AHR testified that because of the MA coverage change, Petitioner's home care supplies were no longer being covered.

Given the lack of information regarding the termination of Petitioner's Extended Care MA eligibility, it is unclear from the record whether the termination was proper. The Department did not introduce evidence of whether Petitioner was a waiver client. Whenever an eligibility factor is unclear or in dispute, the Department is required to request verification from the client or from a third-party source, such as the waiver agency. BAM 130 (May 2024), p. 1. Before determining eligibility, the Department must give clients a reasonable opportunity to resolve any discrepancies between their statements and information from a third-party source. BAM 130, p. 9. Given that Petitioner's waiver status was an eligibility factor in dispute, the Department should have requested verification from Petitioner's AHR or from a third-party source. There is no indication that it did so in this case, and it did not provide adequate information about Petitioner's eligibility for the Extended Care MA program at the hearing. Petitioner is entitled to the most beneficial coverage available, which is the one that results in eligibility and the least amount of excess income or the lowest cost share. BEM 105, p. 2; 42 CFR 435.404.

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 determined Petitioner's eligibility for MA.

**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. Redetermine Petitioner's eligibility for MA, including Extended Care MA, requesting additional information, as necessary, from May 1, 2024 ongoing;
2. Provide Petitioner with the most beneficial MA coverage that she is eligible to receive, from May 1, 2024 ongoing; and
3. Notify Petitioner's AHR of its decision in writing.

LC/ml

  
**L. Alisyn Crawford**  
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**

Tracey Jones  
Oakland County Southfield District III  
25620 W. 8 Mile Rd  
Southfield, MI 48033  
**MDHHS-Oakland-6303-Hearings@michigan.gov**

**Interested Parties**

BSC4  
M Schaefer  
EQAD  
MOAHR

**Via First Class Mail:**

**Authorized Hearing Rep.**

Channa Goldstein  
15040 Dartmouth  
Oak Park, MI 48237

**Petitioner**

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