



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LANSING

MARLON I. BROWN, DPA  
DIRECTOR

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██████████, MI ██████████

Date Mailed: October 29, 2024  
MOAHR Docket No.: 24-009697  
Agency No.: ██████████  
Petitioner: ██████████ ██████████

**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 Microsoft Teams (audio only) on October 23, 2024. Petitioner participated and was represented. ██████████ ██████████ support coordinator of ██████████ testified and participated as Petitioner’s authorized hearing representative (AHR).<sup>1</sup> The Michigan Department of Health and Human Services (MDHHS) was represented by Tamika Trammell, specialist, and Corlette Brown, hearings facilitator.

**ISSUES**

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

The second issue is whether MDHHS properly denied Petitioner’s Medicare Savings Program (MSP) benefits.

**FINDINGS OF FACT**

The administrative law judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On ██████████ ██████████ 2024, Petitioner applied for MA benefits and reported being over 21 years of age, disabled, a Medicare recipient, not a caretaker to a minor child,

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<sup>1</sup> There appeared to be no written authorization from Petitioner appointing the AHR. Nevertheless, a previous adjournment order listed the same AHR and Petitioner seemingly needed an AHR. Despite the possible absence of a written appointment, it will be accepted that Petitioner has an AHR.

and not pregnant. Petitioner also reported residency with his spouse, [REDACTED] (hereinafter, "Spouse").

2. As of March 2024, Petitioner received gross monthly Retirement, Survivors and Disability Insurance (RSDI) of \$1,081.70.
3. As of March 2024, Spouse received gross monthly RSDI of \$1,470.70.
4. On July 19, 2024, and August 2, 2024, Spouse received respective gross biweekly wages of \$[REDACTED] and \$[REDACTED].
5. On August 21, 2024, Petitioner requested a hearing to dispute Medicaid and MSP eligibility.
6. On September 3, 2024, MDHHS determined Petitioner was eligible for Medicaid subject to a monthly deductible beginning May 2024 of at least \$1,914 which increased to \$1,957 as of September 2024. Petitioner was also determined ineligible to receive MSP benefits beginning August 2024.

### **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.<sup>2</sup> Exhibit A, pp. 3-4. A Health Care Coverage Determination Notice dated September 3, 2024, stated that Petitioner was eligible for Medicaid subject to a monthly deductible of \$1,914 beginning May 2024.<sup>3</sup> Exhibit A, pp. 23-24.

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

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<sup>2</sup> Petitioner requested a hearing before September 3, 2024: the date of written notice. Presumably, MDHHS also determined that Petitioner sent another written notice before Petitioner requested a hearing.

<sup>3</sup> The deductible increased to \$1,950 for June and July, \$1,958 for August, and \$1,957 for September 2024.

women, former foster children, MOMS, MICHild and Healthy Michigan Plan is based on Modified Adjusted Gross Income (MAGI) methodology.<sup>4</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 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.*

Petitioner applied for MA benefits on [REDACTED] [REDACTED] 2024. Exhibit A, pp. 13-19. Petitioner's application reported he was over 21 years of age, disabled, a Medicare recipient, not pregnant, and not a caretaker to a minor child. Under the circumstances, Petitioner is ineligible for all MAGI-related categories. As a disabled 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 resided with his spouse. For purposes of AD-Care, Petitioner's group size is two persons. BEM 211 (October 2023) p. 8.

As of the disputed benefit month, Petitioner received gross monthly RSDI of \$1,081 (dropping cents).<sup>5</sup> Spouse received gross RSDI of \$1,470 (dropping cents). Generally, MDHHS counts the gross amount of RSDI in determining Medicaid eligibility.<sup>6</sup> BEM 503 (January 2023) p. 29. Adding Petitioner's and Spouse's RSDI results in a total countable RSDI of \$2,551.

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 \$2,531.

Household income also included Spouse's wages. MDHHS received biweekly pay documents from Spouse dated July 19, 2024, and August 2, 2024, listing respective gross wages of \$[REDACTED] and \$[REDACTED] Exhibit A, pp. 21-22. For SSI-related MA,

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<sup>4</sup> Eligibility factors for all MA categories are found in the Bridges Eligibility Manual from BEM 105 through BEM 174.

<sup>5</sup> An award letter from the Social Security Administration stated Petitioner was eligible to receive \$1,082.60 in RSDI. Exhibit A, p. 20. Petitioner's and MDHHS acknowledged that Petitioner's correct RSDI was \$1,081.

<sup>6</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.

MDHHS calculates gross monthly income by multiplying average biweekly wages by two. BEM 530 (April 2020) p. 3. Multiplying the average wages by two results in countable wages of \$617.22. The AD-Care budget allows for a \$65 and 50% employment income disregard. Applying the disregard results in countable employment income of \$276 (dropping cents). Adding the countable earned and unearned income results in a total countable income of \$2,807.

MDHHS gives AD-Care budget credits for 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.

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.<sup>7</sup> Dividing the annual FPL by 12 results in a monthly income limit of \$1,703.50 (rounding up to nearest half dollar). The same income limit is found in policy.<sup>8</sup> RFT 242 (April 2024) p. 1. Petitioner's monthly countable income of \$2,807 exceeds the AD-Care income limit. 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 group's countable income of \$2,807 is unchanged for G2S. 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 and Spouse each with a \$174.70 credit for payment of a Medicare premium for a total credit of \$350 (rounding up to nearest dollar).

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<sup>7</sup> <https://www.healthcare.gov/glossary/federal-poverty-level-fpl/>

<sup>8</sup> MDHHS policy lists an income limit of \$1,275 was noting the \$20 disregard is factored into the limit.

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 of \$500 and \$350 Medicare premium from Petitioner's group's countable income of \$2,807 results in a monthly deductible of \$1,957. MDHHS calculated the same deductible beginning September 2024. 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. 3-4. MDHHS sent Petitioner a Health Care Coverage Determination Notice dated September 3, 2024, stating that Petitioner was ineligible for MSP benefits beginning August 2024. Exhibit A, pp. 23-24. MDHHS testified that Petitioner was ineligible for MSP due to excess income.<sup>9</sup>

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 \$2,807. Also, as a married individual, Petitioner'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 determined Petitioner to be ineligible for MSP beginning August 2024.

During the hearing, Petitioner's support coordinator testified that Petitioner has a substantial need for Medicaid and its services due to severe disabilities. The testimony was sincere but does not alter Petitioner's MA ineligibility due to excess income. As

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<sup>9</sup> The notice sent to Petitioner stated that Petitioner was ineligible for MSP due to failing to meet basic criteria for the program.

discussed during the hearing, Petitioner might consider meeting his monthly deductible through payment of a chore services provider.

**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 deductible beginning May 2024. MDHHS also properly determined Petitioner to be ineligible for MSP beginning August 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**

Keisha Koger-Roper  
Wayne-District 31 (Grandmont)  
17455 Grand River  
Detroit, MI 48227

**MDHHS-Wayne-31-Grandmont-Hearings@Michigan.gov**

**Interested Parties**

BSC4  
M. Schaefer  
EQAD  
MOAHR

**Via-First Class Mail :**

**Petitioner**

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**Authorized Hearing Rep.**

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██████, MI ██████