



GRETCHEN WHITMER  
GOVERNOR

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

MARLON BROWN  
DIRECTOR

████████████████████  
████████████████████  
████████████████████

Date Mailed: November 7, 2024  
MOAHR Docket No.: 24-009982  
Agency No.: ██████████  
Petitioner: ██████ ██████

**ADMINISTRATIVE LAW JUDGE: Colleen Lack**

**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 October 2, 2024, from Lansing, Michigan. The Petitioner was represented by ██████ ██████ daughter, Guardian, and Authorized Hearing Representative (AHR). The Department of Health and Human Services (Department) was represented by Bonita Welch, Eligibility Specialist (ES) and Latora Giles, Assistance Payment's Supervisor (APS).

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-52.

**ISSUE**

Did the Department properly determine Petitioner's eligibility for Medicaid (MA) and the Medicare Savings Program (MSP)?

**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 July █ 2024, the Department received notice of Petitioner's discharge from long term care (LTC) on June 14, 2024. (Exhibit A, pp. 8-10)
2. Petitioner's income and assets were updated based on a June █ 2024 application for Food Assistance Program (FAP) benefits. (Exhibit A, pp. 1 and 17-18)

3. Effective August 1, 2024, Petitioner's MA coverage under the Extended Care category ended due to his discharge from the LTC facility. (Exhibit A, pp. 1 and 19-23)
4. The Department determined that Petitioner does not qualify for MA under the Aged Disabled (AD Care) category due to income in excess of program limits. (Exhibit A, pp. 1 and 19-23)
5. Petitioner was approved for MA under a group 2 category (MA-G2S) with a monthly deductible of \$ [REDACTED] effective August 1, 2024. (Exhibit A, pp. 19-23 and 39)
6. The MSP was previously approved for June and July 2024 under the Non-Categorically Eligible Michigan Beneficiary (NMB) category and is approved for August 1, 2024 and ongoing under the Additional Low-Income Medicare Beneficiaries (ALMB) category. (Exhibit A, pp. 1, 24-25, 31, 35, and 39)
7. On August 5, 2024, a hearing request was filed on Petitioner's behalf contesting the Department's determination. (Exhibit A, pp. 2-7)

### **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 Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

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.

The Medicaid program comprise several sub-programs or categories. To receive MA under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. Medicaid eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster

children, MOMS, MIChild, Flint Water Group and Healthy Michigan Plan is based on Modified Adjusted Gross Income (MAGI) methodology. In general, the terms Group 1 and Group 2 relate to financial eligibility factors. For Group 1, net income (countable income minus allowable income deductions) must be at or below a certain income limit for eligibility to exist. The income limit, which varies by category, is for nonmedical needs such as food and shelter. Medical expenses are not used when determining eligibility for MAGI-related and SSI-related Group 1 categories. For Group 2, eligibility is possible even when net income exceeds the income limit. This is because incurred medical expenses are used when determining eligibility for Group 2 categories. Group 2 categories are considered a limited benefit as a deductible is possible. BEM 105, January 1, 2024, p. 1.

Plan First 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 residing in Michigan. The fiscal group's net income cannot exceed 195 percent of the federal poverty level. BEM 124, July 1, 2023, p. 1.

MA Extended Care is an SSI-related group 1 MA category. This category is available only to LTC and/or hospital (L/H) and waiver clients who are aged (65 or older), blind or disabled. BEM 164, July 1, 2020, p. 1.

MA AD CARE is an SSI-related group 1 MA category. This category is available to persons who are aged or disabled (AD). Net income cannot exceed 100% of the poverty level. BEM 163, July 1, 2017, p. 1.

Group 2 aged, blind, and disabled (Group 2 MA) is an SSI related MA category that available to a person who is aged (65 or older), blind or disabled. BEM 105, January 1, 2024, p. 5; BEM 166, April 1, 2017, p. 1.

In general, the terms Group 1 and Group 2 relate to financial eligibility factors. For Group 1, net income (countable income minus allowable income deductions) must be at or below a certain income limit for eligibility to exist. The income limit, which varies by category, is for nonmedical needs such as food and shelter. Medical expenses are not used when determining eligibility for MAGI-related and SSI-related Group 1 categories. For Group 2, eligibility is possible even when net income exceeds the income limit. This is because incurred medical expenses are used when determining eligibility for Group 2 categories. Group 2 categories are considered a limited benefit as a deductible is possible. BEM 105, January 1, 2024, p. 1.

The Department counts the gross benefit amount of Social Security Administration issued Retirement Survivors Disability Insurance (RSDI) benefits as unearned income when determining eligibility. BEM 503, April 1, 2024, p. 30. The Department disregards the annual cost of living increase for RSDI for January, February, and March. BEM 503, April 1, 2024, pp. 30-31.

Asset eligibility exists when the asset group's countable assets are less than, or equal to, the applicable asset limit at least one day during the month being tested. BEM 400, April 1, 2024, p. 6. For an SSI-related MA group of one, the asset limit is \$2,000.00. For the MSP, the asset limit is a group of one is \$9,430.00 effective January 1, 2024. BEM 400. p. 8.

There are four categories that make up the MSP: Qualified Medicare Beneficiaries (QMB); Specified Low-Income Medicare Beneficiaries (SLMB); Additional Low-Income Medicare Beneficiaries (ALMB); and Non-Categorically Eligible Michigan Beneficiary (NMB). Income is the major determiner of category. For QMB net income cannot exceed 100% of poverty. For SLMB net income is over 100% of poverty, but not over 120% of poverty. For ALMB net income is over 120% of poverty, but not over 135% of poverty. For NMB, income and assets above allowed ALMB limits but have full coverage Medicaid with Medicare part A/B entitlement. BEM 165, June 1, 2024, p. 1.

The Department utilizes a Protected Income Level (PIL) in determining MA eligibility. The PIL is a set allowance for non-medical need items such as shelter, food and incidental expenses. BEM 544, January 1, 2020, p. 1 Wayne County is part of Shelter Area IV, which has a PIL of \$375.00 for a group size of one. RFT 200, April 1, 2017, p. 3 and RFT 240, December 1, 2013, p. 1.

For SSI related adults, the only deductions allowed to countable income are for court-ordered child support, blind/impairment related work expenses, allocation to non-SSI related children, a \$20.00 disregard, an earned income disregard of \$65.00 plus ½ of the remaining earnings, and Guardianship/Conservator expenses. BEM 541, January 1, 2024, pp. 1-7.

Income eligibility exists for all or part of the month tested when there is no excess income or the medical group's allowable medical expenses equal or exceed the fiscal group's excess income. BEM 545, July 1, 2022, p. 1-3.

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. Each calendar month is a separate deductible period. The fiscal group's monthly excess income is called a deductible amount. Meeting a deductible means reporting and verifying allowable medical expenses that equal or exceed the deductible amount for the calendar month tested. BEM 545, July 1, 2022, p. 10-12.

RFT 242 addresses the income limits for aged or disabled MA (MA-AD) and the MSP categories. Effective April 1, 2024, for a group size of one the income limit for MA-AD and QMB is \$1,275.00; for SLMB the income limit is \$1,275.01 to \$1,526.00; and for ALMB the income limit is \$1,526.01 to \$1,714.25. The RFT 242 policy notes that these amounts are the applicable percentage of the federal poverty limit plus the \$20.00 disregard for RSDI income. RFT 242, April 1, 2024, p. 1.

In this case, the Department has not provided sufficient evidence to review all of the MA eligibility determinations that appear to have occurred.

Petitioner was receiving MA under the Extended Care category. On July █ 2024, the Department received notice of Petitioner's discharge from LTC on June █ 2024. (Exhibit A, pp. 8-10). Effective August 1, 2024, Petitioner's MA coverage under the Extended Care category ended due to his discharge from the LTC facility. (Exhibit A, pp. 1 and 19-23). It does not appear that a Health Care Coverage Determination Notice was issued in advance of the August 1, 2024 change in MA eligibility. The Department's Hearing Summary packet includes written notices issued on June 26, 2024, before the Department was aware of the discharge, and August 8, 2024, after the change in MA eligibility occurred. (Exhibit A, pp. 35-43).

The Department asserted that Petitioner was denied MA under the G2S category based on a failure to verify assets. (Exhibit A, p. 1; ES Testimony). However, there is no documentary evidence to support a denial based on an alleged failure to verify assets, let alone documentation of a request for asset verification. Rather, the Department also stated that Petitioner's income and assets were updated based on a June 20, 2024 application for FAP benefits. (Exhibit A, pp. 1 and 17-18). Further, Petitioner was approved for MA-G2S with a monthly deductible of \$█ effective August 1, 2024. (Exhibit A, pp. 19-23 and 39). Additionally, the MSP was previously approved for June and July 2024 under the NMB category and is approved for August 1, 2024 and ongoing under the ALMB category. (Exhibit A, pp. 1, 24-25, 31, 35, and 39). If there had been a failure to verify assets, it is expected that it would have affected eligibility for both MA-G2S and the MSP because there are asset limits for each.

The Department has not presented sufficient evidence to review the MA eligibility determinations that went into effect August 1, 2024. The Department did not include copies of the MA budget showing how the monthly deductible was calculated, or any verification the Department obtained regarding child support. When discussing what would have been included in the MA budget, it appears that the parties do not agree on Petitioner's child support obligation. (ES and AHR Testimony).

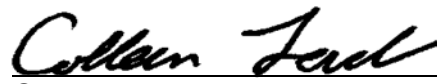
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner's eligibility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

**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 effective August 2024, in accordance with Department policy.



---

**Colleen Lack**  
Administrative Law Judge

CL/dm

**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**  
Denise Key-McCoggle  
Wayne-Greydale-DHHS  
**MDHHS-Wayne-15-Greydale-  
Hearings@michigan.gov**

**SchaeferM**

**EQADHearings**

**BSC4HearingDecisions**

**MOAHR**

**Via-First Class Mail :**

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED]

**Authorized Hearing Rep.**

[REDACTED]  
[REDACTED]  
[REDACTED]