



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES  
SUZANNE SONNEBORN  
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██████████, MI ██████████

Date Mailed: December 27, 2024  
MOAHR Docket No.: 24-010899  
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, an in-person hearing was held on December 18, 2024 from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Lakeyia Johnson, supervisor, and Tisha Jackson, specialist.

### **FINDINGS OF FACT**

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. On February 20, 2024, MDHHS sent Petitioner notice of being eligible for Medicaid subject to a deductible of \$794 beginning April 2024.
2. On March 21, 2024, MDHHS sent Petitioner notice of eligibility for the limited-coverage MA category of Plan First and full-coverage Medicaid beginning April 2024.
3. As of September 2024, Petitioner received gross monthly Retirement, Survivors and Disability Insurance (RSDI) of \$1,363 (dropping cents).

4. As of September 2024, MDHHS determined Petitioner was eligible for the limited-coverage MA category of Plan First and Medicaid subject to a monthly deductible of \$968.
5. On September 25, 2024, Petitioner requested a hearing to dispute Medicaid eligibility.

### **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 to dispute Medicaid eligibility. Exhibit A, pp. 3-5. MDHHS testified that the most recent written notice of Medicaid sent to Petitioner was dated March 21, 2024.<sup>1</sup> The notice stated that Petitioner was eligible for the limited-coverage MA category of Plan First and full coverage Medicaid beginning April 2024. Exhibit B, pp. 1-4. MDHHS credibly testified it later determined Petitioner to be eligible only for the limited-coverage MA category of Plan First and Medicaid subject to a \$968 monthly deductible.

Before a substantive analysis is undertaken, MDHHS contended that Petitioner is barred from a substantive analysis of Medicaid because a hearing request was not timely filed. 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.<sup>2</sup> BAM 600 (February 2024) p. 6. MDHHS testimony acknowledged that it was unable to verify when written notice of a reduction in Medicaid was sent to Petitioner after it sent Petitioner notice of full-coverage Medicaid on March 21, 2024. Thus, the evidence failed to establish that MDHHS sent proper written notice of a reduction in Medicaid. Without establishing that proper written notice was issued, Petitioner is not barred due to timeliness from having an administrative hearing on the merits of the underlying dispute.<sup>3</sup> Accordingly, the analysis will continue to address the substance of Petitioner's hearing request dispute.

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<sup>1</sup> A Health Care Coverage Determination Notice dated May 15, 2024 stated Petitioner was approved for ongoing Medicare Savings Program benefits. Exhibit A, pp. 12-14. The notice was silent as to Petitioner's Medicaid eligibility.

<sup>2</sup> For Food Assistance Program benefits only, a hearing request may be made orally. *Id.*

<sup>3</sup> Arguably, the analysis could stop with MDHHS being ordered to send Petitioner notice of Medicaid eligibility. Such an outcome would be counterproductive and result in Petitioner having to again request a hearing over Medicaid eligibility after MDHHS sends written notice. In the interest of simplifying the hearing procedure process, the analysis will accept that proper written notice was issued and examine Petitioner's dispute on its merits.

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 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's testimony agreed that she was at least 65 years of age, a Medicare recipient, not a caretaker to minor children, unmarried, and not pregnant. Exhibit A, pp. 8-10. As a non-pregnant, non-caretaker, Medicare recipient above the age of 21, Petitioner is ineligible for all full-coverage MAGI-related categories. As a disabled individual, Petitioner is potentially eligible to receive full-coverage MA under the Group 1 SSI-related category of Aged/Disabled Care (AD Care). BEM 163 (July 2017) p. 1.

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 (October 2023) p. 8.

As of the disputed benefit month, Petitioner received gross monthly RSDI of \$1,363.<sup>5</sup> The amount of RSDI was verified from data exchange documents with the Social Security Administration. Exhibit A, pp. 16-18. Generally, MDHHS counts the gross amount of RSDI in determining Medicaid eligibility.<sup>6</sup> BEM 503 (January 2023) p. 29. Petitioner's RSDI of \$1,363 is countable for AD-Care.

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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> Petitioner testified to receiving only \$1,322 in RSDI benefits in 2024 until September or October 2024. Accepting Petitioner's testimony as accurate should not affect the analysis. First, a temporary reduction in RSDI would not change Petitioner's ongoing Medicaid eligibility. Secondly, there was no evidence that the reduction in RSDI changes the amount of RSDI to be budgeted which is based on monthly gross amount.

<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.

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 from Petitioner's RSDI results in countable income of \$1,343.

MDHHS also 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 2023) p. 29. No applicable expenses were alleged.

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.<sup>7</sup> Dividing the annual FPL by 12 results in a monthly income limit of \$1,255. The same income limit is found in policy.<sup>8</sup> RFT 242 (April 2024) p. 1. Petitioner's countable income of \$1,343 exceeds the AD-Care income limit. Given the evidence, MDHHS properly determined Petitioner to be ineligible for MA under any Group 1 MA category other than Plan First.<sup>9</sup>

Though Petitioner is ineligible for MA benefits under AD-Care or any other Group 1 category, 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).

Clients with a deductible may receive MA if sufficient allowable medical expenses are incurred.<sup>10</sup> BEM 545 (April 2018), p. 11. 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 \$1,463 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. No applicable expenses were alleged.

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

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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 while noting the \$20 disregard is factored into the limit.

<sup>9</sup> Presumably, Petitioner's group's income is within the income guidelines to receive the limited coverage MA category of Plan First. The Plan First income limit is 195% of the FPL. BEM 124 (July 2023) p. 2.

<sup>10</sup> Clients should be aware that medical expenses need only be incurred, and not necessarily paid, to meet a deductible/spenddown.

as shelter, food, and incidental expenses. The PIL for Petitioner's shelter area and group size is \$375. RFT 240 (December 2013) p. 1.

Subtracting the PIL of \$375 and \$20 disregard from Petitioner's countable income of \$1,363 results in a monthly deductible of \$968; MDHHS calculated the same deductible.<sup>11</sup> Given the evidence, MDHHS properly determined Petitioner's Medicaid eligibility.

Petitioner credibly testified that she was eligible for chore services until a deductible was imposed. Petitioner's testimony does not alter the determination that she has excess income for full Medicaid. However, clients with ongoing chore service expenses may qualify for ongoing Medicaid by incurring or paying the monthly deductible (see BEM 545) to the chore service provider. As discussed during the hearing, Petitioner can submit proof of monthly chore service costs to MDHHS for consideration of medical expenses automatically meeting the monthly deductible.

### **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 Plan First and Medicaid subject to a \$968 monthly deductible since an unspecified benefit month after April 2024. The actions of MDHHS are **AFFIRMED**.

CG/nr



**Christian Gardocki**

Administrative Law Judge

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<sup>11</sup> MDHHS presented no budget verifying its deductible calculation. Instead, it inexplicably presented a budget approving Petitioner for MSP benefits. Exhibit A, p. 20.

**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  
27260 Plymouth Rd  
Redford, MI 48239

**MDHHS-Wayne-15-Greydale-Hearings@michigan.gov**

**Interested Parties**

BSC4  
M. Schaefer  
EQAD  
MOAHR

**Via-First Class Mail :**

**Petitioner**

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