



GRETCHEN WHITMER  
GOVERNOR

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

MARLON I. BROWN, DPA  
DIRECTOR

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[REDACTED]  
[REDACTED]  
[REDACTED] MI [REDACTED]

Date Mailed: October 31, 2024  
MOAHR Docket No.: 24-011028  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Alice C. Elkin**

**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 28, 2024. Petitioner was present and unrepresented. The Department of Health and Human Services (Department) was represented by Toia Mattison-Brown, Assistance Payment Worker.

**ISSUE**

Did the Department properly determine Petitioner's Medicaid (MA) eligibility?

Did the Department properly determine Petitioner's Medicare Savings Program (MSP) 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 insurance under the full-coverage Aged Disability (AD)-Care and Medicare Savings Program (MSP) benefits under the Qualified Medicare Beneficiary (QMB) category.
2. Petitioner receives monthly Retirement Survivors and Disability Insurance (RSDI) benefits of [REDACTED] and has Part B Medicare coverage that she pays for.
3. In connection with a redetermination, the Department reassessed Petitioner's eligibility for MA.

4. On September 26, 2024, the Department received Petitioner's hearing request disputing the Department's actions concerning her MA and Food Assistance Program (FAP) cases.
5. On October 4, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice notifying her that (i) effective November 1, 2024, she was eligible for MA subject to a \$1,277 monthly deductible, (ii) effective April 1, 2024, she was ineligible for MSP because she was not under 21, over 65, blind, disabled, pregnant, or the caretaker of a minor child and had annual income of [REDACTED] (iii) effective June 1, 2024, she was ineligible for MSP because she was not under 21, over 65, blind, disabled, pregnant, or the caretaker of a minor child; and (iv) effective August 1, 2024, she was ineligible for MSP because she did not meet basic criteria. (Exhibit A, pp. 31-37)

### **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.

Petitioner requested a hearing disputing her MA, MSP and FAP cases. At the hearing, she testified that her FAP issue was resolved and agreed to dismiss her hearing request concerning her FAP. Therefore, Petitioner's hearing request concerning FAP is dismissed. The hearing proceeded to address Petitioner's MA and MSP cases.

#### **MA Coverage**

Petitioner alleged that the Department improperly closed her MA case effective July 31, 2024 and then improperly determined that she was eligible for MA subject to a monthly \$1,277 deductible.

The Department disputed Petitioner's testimony that her MA case closed effective July 1, 2024, contending that, due to its own error, it delayed processing the redetermination that it timely received from Petitioner on July 24, 2024, but that Petitioner received ongoing, uninterrupted MA first under the Extended Care program and then under the full-coverage AD-Care program until she was determined eligible for MA subject to a monthly deductible effective November 1, 2024. The Department explained that Petitioner, who had been in

a rehabilitation center, was receiving MA under the Extended Care program, lost Extended Care benefits as of July 31, 2024 when she was released from the facility, and then was covered by full-coverage AD-Care until November 1, 2024, when the MA case subject to the monthly \$1,277 deductible became effective. However, the eligibility summary the Department provided showed that Petitioner had no MA coverage between April 1, 2024 and October 31, 2024. (Exhibit B). Although Petitioner acknowledged that the rehabilitation facility was paid by Medicaid through July 31, 2024, the Department failed to establish, contrary to its testimony, that Petitioner had any coverage between August 1, 2024 and October 31, 2024. Therefore, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy in assessing Petitioner's MA eligibility for August 1, 2024 to October 31, 2024.

Effective November 1, 2024, the Department determined that Petitioner was eligible for MA subject to a monthly \$1,277 deductible. 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. 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 a Medicare recipient, received RSDI either due to being over age 65 or disabled, and was not the parent or caretaker of a minor child, Petitioner was eligible for MA under an SSI-related category only. In determining the SSI-related MA category Petitioner is eligible for, MDHHS must determine Petitioner's MA fiscal group size and net income. Petitioner was unmarried. As an unmarried individual, Petitioner has a fiscal group size for SSI-related MA purposes of one. BEM 211 (October 2023), p. 8. The household's net income for MA purposes is [REDACTED] which is her monthly [REDACTED] RSDI income reduced by a \$20 disregard, which is the only deduction available to Petitioner under policy where there was no evidence that she had earnings, was responsible for court-ordered child support, incurred blind- or impairment-related work expenses, was the caretaker of a minor child, or had guardianship or conservator expenses. BEM 541 (January 2024), pp. 1-3.

The AD-Care program is the full-coverage SSI-related MA program. It has a net income limit equal to 100% of the federal poverty level, or \$1,255. BEM 163 (July 2017), p. 2 (explaining that the net income limit is determined by subtracting twenty dollars from the income limited listed on RFT 242 (April 2024), p. 1); <https://aspe.hhs.gov/poverty-guidelines>. Based on her RSDI income, Petitioner was not eligible for MA coverage under the AD-Care program.

However, clients who are ineligible for full-coverage MA coverage under AD-Care because of excess income may still be eligible for SSI-related MA under a Group 2 SSI-related (G2S) program, which provides for MA coverage with a monthly deductible. BEM 105, p. 1. The G2S deductible is in the amount that a client's net income (less any allowable needs deductions) exceeds the applicable Group 2 MA protected income levels (PIL). BEM 530 (April 2020), pp. 2-3.

The PIL is a set amount for non-medical need items such as shelter, food and incidental expenses based on the client's MA fiscal group size and county of residence. BEM 105, p. 1; BEM 166 (April 2017), pp. 1-2; BEM 544 (January 2020), p. 1; RFT 240 (December 2013), p. 1; RFT 200 (April 2017), p. 2. The monthly PIL for a client in Petitioner's position, with an MA fiscal group size of one living in ██████ County, is \$408 per month. RFT 200, p. 2; RFT 240, p. 1. Thus, if Petitioner's monthly net income (less allowable needs deductions) exceeds \$408, Petitioner is eligible for MA assistance under the deductible program, with the deductible equal to the amount that monthly net income, less allowable needs deductions, exceeds \$408. BEM 544, pp. 1-2.

In determining the monthly deductible, Petitioner's net income is reduced by health insurance premiums paid by the MA group and remedial service allowances for individuals in adult foster care or homes for the aged. BEM 544, pp. 1-3. In this case, Petitioner does not reside in an adult foster care home or home for the aged and, as such, is not eligible for any remedial service allowances. Petitioner pays her Part B Medicare premium, which is currently \$174.70 monthly. Petitioner did not identify any other health insurance premiums that she was responsible for paying. (See Exhibit A, pp. 10-11) Therefore, Petitioner's allowable needs deduction for health insurance and remedial services totaled \$174.70.

Petitioner's net income of ██████ reduced by the \$174.70 allowable needs deductions and by the \$408 PIL results in a deductible of \$1,277. Thus, the Department properly determined Petitioner's eligibility for SSI-related MA under the G2S program with a monthly \$1,277 deductible.

### **MSP**

Petitioner also disputed the loss of her MSP benefits. Although the October 4, 2024 NOCA included various reasons for ineligibility, income was a consideration beginning with ineligibility starting April 1, 2024. At the hearing, the Department explained that Petitioner had excess income for MSP.

MSP is a State-administered program in which the State pays an income-eligible client's Medicare premiums, coinsurances, and deductibles. BEM 165 (October 2022), pp. 1-2; BAM 810 (July 2019), p. 1. There are three MSP categories: (1) Qualified Medicare Beneficiaries (QMB), which pays for a client's Medicare premiums (both Part A, if any, and Part B), Medicare coinsurances and Medicare deductibles; (2) Specified Low-Income Medicare Beneficiaries (SLMB), which pays for a client's Medicare Part B premiums; and (3) Additional Low Income Medicare Beneficiaries (ALMB), which pays for a client's Medicare Part B premiums when funding is available. BEM 165, pp. 1-2. To be eligible

for MSP, Petitioner, as a one-person MA fiscal group, cannot have net income that exceeds 135% of the federal poverty level, or \$1,714.25 in 2024. BEM 165, p. 1; RFT 242 (April 2024), p. 1. Because Petitioner's net income is in excess of the MSP income limit, the Department properly determined that Petitioner was not income eligible for MSP.

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 acted in accordance with Department policy when it concluded that Petitioner was income ineligible for MSP and was eligible, effective November 1, 2024, for MA coverage under the G2S program subject to a \$1,277 monthly deductible but failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner's MA coverage for August 1, 2024 to October 31, 2024.

### **DECISION AND ORDER**

Petitioner's hearing request concerning FAP is **DISMISSED**.

The Department MSP eligibility determination is **AFFIRMED**.

The Department's MA decision concerning Petitioner's coverage for August 1, 2024 to October 31, 2024 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 MA coverage for August 1, 2024 to October 31, 2024;
2. If eligible, provide Petitioner with the most beneficial MA coverage she is eligible for from August 1, 2024 to October 31, 2024; and
3. Notify Petitioner in writing of its decision.

ACE/ml



**Alice C. Elkin**  
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:**

**Petitioner**

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