



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA
DIRECTOR

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Date Mailed: November 18, 2024
MOAHR Docket No.: 24-011111
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 telephone hearing was held via Microsoft Teams on November 13, 2024. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Desiree Mitchell, supervisor, and Lakeyia Johnson, supervisor.

ISSUE

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

FINDINGS OF FACT

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

1. As of August 2024, Petitioner was disabled and/or over 65 years of age, a Medicare recipient, not a caretaker to minor children, unmarried, and not pregnant.
2. As of August 2024, Petitioner received gross monthly Retirement, Survivors and Disability Insurance (RSDI) of \$1,510.
3. On August 12, 2024, MDHHS determined Petitioner to be eligible for the limited-coverage MA category of Plan First and Medicaid subject to a monthly \$1,115 deductible beginning September 2024.

4. On October 1, 2024, Petitioner requested a hearing to dispute MA 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 a determination of MA benefits. Exhibit A, pp. 3-4. A Health Care Coverage Determination Notice dated August 12, 2024, stated that Petitioner was eligible for the limited-coverage MA category of Plan First and Medicaid subject to a \$1,115 monthly deductible beginning September 2024.¹ Exhibit A, pp. 14-19.

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.² *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 application for MA benefits dated [REDACTED] [REDACTED] 2024, reported that Petitioner was disabled, 21-65 years of age, not pregnant, a Medicare recipient, and not a

¹ Plan First is a MAGI-related limited-coverage MA category available to any United States citizen or individual with a qualified immigration status. BEM 124 (July 2023) p. 1. Plan First coverage is a "limited-coverage" because it only covers family planning services such as birth control (see form DCH-2840-MSA).

² Eligibility factors for all MA categories are found in the Bridges Eligibility Manual from BEM 105 through BEM 174.

caretaker to minor children. Exhibit A, pp. 6-11. As a non-pregnant and non-caretaker Medicare recipient above the age of 21, Petitioner is ineligible for all full-coverage MAGI-related categories. As a disabled and/or aged individual, Petitioner is potentially eligible to receive MA under the SSI-related Group 1 category of Aged/Disability-Care (AD-Care). AD-Care policies are found in BEM 163.

At all relevant times, Petitioner did not reside with a spouse. For purposes of AD-Care, Petitioner's group size is one. BEM 211 (October 2023) p. 8.

For AD-Care, MDHHS is to determine countable income according to SSI-related MA policies in BEM 500, 501, 502, 503, 504 and 530, except for RSDI.³ BEM 163 (July 2017) p. 2. For RSDI, MDHHS is to count gross RSDI from the benefit month except from January through March in which gross RSDI from the most recent December is counted. *Id.* For AD-Care, MDHHS is to apply the deductions in BEM 540 (for children) or 541 (for adults). *Id.*

For SSI-Related MA categories, a \$20 disregard is given for unearned income. BEM 541 (July 2019) p. 3. MDHHS gives AD-Care budget credits for employment income, guardianship expenses, and/or conservator expenses. No other disregards or expenses were applicable. Subtracting the disregard from Petitioner's countable RSDI results in a net income of \$1,490.

As of the disputed benefit month, Petitioner received gross monthly income of \$1,510. Generally, MDHHS counts the gross amount of RSDI in determining Medicaid eligibility.⁴ BEM 503 (January 2023) p. 29. Petitioner's countable income for AD-Care is \$1,510.

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 \$15,060.⁵ Dividing the annual FPL by 12 results in a monthly income limit of \$1,255. The same income limit is found in policy.⁶ RFT 242 (April 2023) p. 1. Petitioner's countable income of \$1,490 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.⁷

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

⁴ 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 BEM 503). No exceptions were applicable to the present case.

⁵ <https://www.healthcare.gov/glossary/federal-poverty-level-fpl/>

⁶ MDHHS policy lists an income limit of \$1,275 while noting the \$20 disregard is factored into the limit.

⁷ 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.

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.*

G2S is an SSI-related MA category. BEM 166 (April 2017) p. 1. As such, Petitioner's gross countable income of \$1,414 is the same for AD-Care and 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 as shelter, food, and incidental expenses. The PIL for Petitioner's shelter area and group size is \$375. RFT 240 (December 2013) p. 1.

Petitioner testified paying rent and other expenses as reasons to be eligible for Medicaid. Petitioner's testimony was sincere, but such expenses are factored within the standard \$375 PIL and otherwise not relevant.

Subtracting the PIL of \$375 and \$20 disregard from Petitioner's countable income of \$1,510 results in a monthly deductible of \$1,115; MDHHS calculated the same deductible. Exhibit A, p. 13. Thus, MDHHS properly determined Petitioner's Medicaid eligibility.

Petitioner credibly testified receiving chore services until the change in MA eligibility subject to a deductible. The testimony does not alter the determination that Petitioner 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.

Petitioner also requested a hearing to dispute a termination of eligibility under the Breast and Cervical Cancer Prevention and Treatment Program (BCCPTP). MDHHS testified that a Notice of Medicaid Ending document dated October 9, 2024, stated Petitioner's BCCPTP eligibility would end October 2024 because of unstated reasons.

BCCPTP is a Group 1 Medicaid category for women. BEM 173 (October 2016) p. 1. MDHHS and the Medical Services Administration (MSA) is responsible for establishing Medicaid under this category. *Id.* All hearing requests for BCCPTP applicants and recipients will be handled by MSA. *Id.*, p. 3. If received by MDHHS, such hearing requests must be faxed, then mailed to MSA's Administrative Tribunal. *Id.*

As of the date of the decision, Petitioner's dispute over BCCPTP has already been forwarded to MSA. As such, Petitioner should expect to receive a notice for a hearing to dispute BCCPTP eligibility with MSA.

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 \$1,115 monthly deductible beginning September 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

Denise Key-McCoggle
Wayne-Greydale-DHHS
27260 Plymouth Rd
Redford, MI 48239

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

Interested Parties

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Via-First Class Mail :

Petitioner

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