



GRETCHEN WHITMER
GOVERNOR

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

Date Mailed: December 5, 2024
MOAHR Docket No.: 24-011887
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 audio hearing was held via Microsoft Teams on November 27, 2024. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Jamila Goods, specialist.

ISSUES

The first issue is whether MDHHS properly determined Petitioner's Medicaid eligibility.

The second issue is whether MDHHS properly terminated 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. As of May 2024, Petitioner was married, disabled, 19-65 years old, a Medicare recipient, not a caretaker to minor children, and not pregnant.
2. As of May 2024, Petitioner received \$2,422 in gross monthly Retirement, Survivors, Disability Insurance (RSDI) and his spouse received \$1,328.
3. As of May 2024, Petitioner reported to MDHHS having \$508 (rounding up to nearest dollar) in monthly insurance premiums.

4. On October 15, 2024, MDHHS terminated Petitioner's MSP eligibility beginning December 2023 due to excess income.
5. On October 23, 2024, Petitioner requested a hearing to dispute Medicaid and MSP eligibility.
6. On November 26, 2024, MDHHS determined that Petitioner was eligible for Medicaid subject to a \$2,722 monthly deductible beginning May 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. Exhibit A, pp. 3-5. MDHHS testified that a Health Care Coverage Determination Notice dated November 26, 2024, stated that Petitioner was eligible for Medicaid subject to a monthly deductible of \$2,722 beginning May 2024.¹

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.*

¹ Petitioner requested a hearing over one month before the notice of Medicaid was issued. The evidence suggested that Petitioner had no Medicaid eligibility before requesting a hearing. A notice dated March 21, 2024 stated that Petitioner was ineligible for Medicaid beginning May 2024 due to excess assets. Exhibit A, pp. 12-15. The notice dated November 26, 2024, appeared to be MDHHS's response to a Hearing Decision dated August 27, 2024, concerning Petitioner's asset eligibility for Medicaid. Exhibit A, pp. 37-41. The Hearing Decision ordered MDHHS to reprocess Petitioner's Medicaid eligibility which eventually resulted in the determination dated November 26, 2024. *Id.*

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

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.*

The evidence suggested that Petitioner 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.

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.*

It was not disputed that Petitioner's RSDI was \$2,422 and his spouse's RSDI was \$1,328. 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. 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.

The RSDI of Petitioner and his spouse totaled \$3,750. Only the \$20 unearned income disregard was applicable resulting in countable monthly income of \$3,730.

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 \$20,440.⁴ 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.⁵ RFT 242 (April 2024) p. 1. Petitioner's group's monthly countable income of \$3,730 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.

⁴ <https://www.healthcare.gov/glossary/federal-poverty-level-fpl/>

⁵ MDHHS policy lists an income limit of \$1,723.50 was noting the \$20 disregard is factored into the limit.

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.*

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.*

For aged/disabled persons, G2S is the applicable Group 2 MA category. G2S is an SSI-Related MA category. BEM 166 (April 2017) p. 1.

As an SSI-related MA category, Petitioner's group's countable income of \$3,730 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's group with \$508 in premiums; Petitioner's testimony acknowledged not reporting additional premiums to MDHHS

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 \$508 insurance premiums from Petitioner's group's countable income of \$3,730 results in a monthly deductible of \$2,722: the same deductible calculated by MDHHS. 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. 3-5. A Health Care Coverage Determination Notice dated October 15, 2024, stated that Petitioner was ineligible for MSP beginning December 2023 due to excess income. Exhibit A, pp. 57-60.

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 group's gross monthly income for MSP is \$3,730. 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.

Petitioner's hearing request explained that Petitioner required ongoing treatment for Stage 4 renal cancer. Petitioner also explained being billed for substantial medical expenses costs for radiology, surgeries, and traveling to out-of-state specialists. Petitioner also noted that his spouse also had substantial medical expenses. Petitioner's circumstances were unquestionably sincere, but ultimately not relevant to determining income eligibility. Given the evidence, MDHHS properly determined Petitioner to be ineligible for full coverage Medicaid and MSP beginning May 2024.

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 \$2,722 deductible May 2024. MDHHS also properly determined Petitioner to be ineligible for MSP beginning December 2023. 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 :

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