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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 13, 2024
MOAHR Docket No.: 24-012259
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 hearing was held via Microsoft Teams on December 11, 2024. Petitioner participated and was unrepresented. ██████████ ██████████ Petitioner's spouse (hereinafter, "Spouse") testified on behalf of Petitioner. The Michigan Department of Health and Human Services (MDHHS) was represented by Dequindre Williamson, supervisor.

ISSUE

The issue is whether MDHHS properly determined Petitioner's and Spouse's Medicaid 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 September 2024, Petitioner and Spouse were married, over 65 years old, Medicare recipients, not caretakers to minor children, and not pregnant.
2. As of September 2024, Petitioner and Spouse received \$661 and \$1,207 in respective, gross monthly Retirement, Survivors, Disability Insurance (RSDI).
3. As of September 2024, Petitioner and Spouse had no known medical insurance premiums.

4. On October 3, 2024, MDHHS determined that Petitioner and Spouse were eligible for the limited coverage MA category of Plan First and Medicaid subject to a monthly deductible of \$1,307 beginning November 2024.
5. On October 29, 2024, Petitioner requested a hearing to dispute Medicaid eligibility for himself and Spouse.

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 Medicaid eligibility for himself and Spouse. Exhibit A, pp. 3-5. A Health Care Coverage Determination Notice dated October 3, 2024, stated that Petitioner and Spouse were eligible for the limited-coverage MA category of Plan First and Medicaid subject to a \$1,307 monthly deductible beginning September 2024.¹ Exhibit B, pp. 1-5.

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.

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.

Id. Group 2 categories are considered a limited benefit (not limited coverage) because a deductible is possible. *Id.*

Petitioner's testimony acknowledged that he and Spouse were Medicare recipients aged over 65 years, not caretakers to a minor child, and not pregnant. As non-pregnant and non-caretaker Medicare recipients above the age of 65, Petitioner and Spouse are ineligible for all full-coverage MAGI-related categories. As disabled and/or aged individuals, Petitioner and Spouse are 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. MDHHS alleged that Petitioner and Spouse were ineligible due to excess income.

At all relevant times, Petitioner and Spouse were married. For purposes of AD-Care, Petitioner's and Spouse's group size is two. 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.⁴ *Id.* For AD-Care, MDHHS is to apply the deductions in BEM 540 (for children) or 541 (for adults). *Id.*

As of the disputed benefit month, Petitioner's gross monthly RSDI was \$661, and Spouse's was \$1,207. Adding the gross RSDI results in \$1,868 in countable RSDI.

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. Petitioner did not allege any relevant budget expenses or credits. Subtracting the disregard from the group's countable RSDI results in a net income of \$1,848.

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 \$20,440.⁵ Dividing the annual FPL by 12 results in a monthly income limit of \$1,703.50 (rounding to nearest half dollar). The same income limit is found in policy.⁶ RFT 242 (April 2023) p. 1. Petitioner's group's countable income exceeds the AD-Care

³ 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.

⁴ Similarly, MDHHS states that cost of living adjustments (COLA) to RSDI are applicable for the benefit months of January through March only. BEM 503 (April 2024) p. 29

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

⁶ MDHHS policy lists an income limit of \$1,723.50 while noting the \$20 disregard is factored into the limit.

income limit. Given the evidence, MDHHS properly determined Petitioner and Spouse to be ineligible for MA under any Group 1 MA category other than Plan First.⁷

Though Petitioner and Spouse are ineligible for MA benefits under AD-Care or any other Group 1 category offering unlimited MA coverage, Petitioner and Spouse 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).

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 group's gross countable income of \$1,868 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 deductions are applicable other than the standard \$20 disregard.

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 \$541. RFT 240 (December 2013) p. 1.

Subtracting the PIL of \$541 and \$20 disregard from Petitioner's group's countable income of \$1,868 results in a monthly deductible of \$1,307; MDHHS calculated the same deductible. Exhibit A, p. 6. Thus, MDHHS properly determined Petitioner's and Spouse's Medicaid eligibility.

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.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly determined Petitioner and Spouse to be eligible for Plan First and Medicaid subject to a \$1,307 monthly deductible beginning November 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

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Interested Parties

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Via-First Class Mail :

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