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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: January 27, 2025
MOAHR Docket No.: 24-012908
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 January 13, 2025. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Doris Reynolds, supervisor, Corlette Brown, hearings facilitator, and Monique Jones, specialist.

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. On May 7, 2024, MDHHS determined Petitioner to be eligible for Medicare Savings Program (MSP) benefits and Medicaid subject to a monthly deductible of \$897 beginning June 2024.
2. On ██████████ 2024, Petitioner applied for MA benefits.
3. As of May 2024, Petitioner was disabled and/or over 65 years of age, a Medicare recipient, not a caretaker to minor children, unmarried, and not pregnant.

4. On an unspecified date, MDHHS determined Petitioner to be eligible for the limited-coverage MA category of Plan First.
5. As of September 2024, Petitioner received gross monthly Retirement, Survivors and Disability Insurance (RSDI) of \$1,292.
6. On September 10, 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 eligibility. Exhibit A, pp. 3-5. A Health Care Coverage Determination Notice dated May 7, 2024, stated that Petitioner was eligible for Medicaid subject to a monthly deductible of \$897 beginning June 2024.¹ Exhibit A, pp. 12-17. To determine if MDHHS properly determined Petitioner's Medicaid eligibility, an analysis of MA categories must be considered.

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.*

¹ The notice also informed Petitioner of an approval of Medicare Savings Program benefits as of June 2024.

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

Petitioner's application for MA benefits dated [REDACTED] 2024 indicated she was disabled and/or over 65 years of age, a Medicare recipient, not a caretaker to minor children, and not pregnant. Exhibit A, pp. 6-11. Given the circumstances, Petitioner is ineligible for all 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. 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.*

As of the disputed benefit month, Petitioner received gross monthly income of \$1,292. Generally, MDHHS counts the gross amount of RSDI in determining Medicaid eligibility.³ BEM 503 (January 2023) p. 29. Petitioner's countable income for AD-Care is \$1,292.

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 \$1,272.

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 \$15,060.⁴ Dividing the annual FPL by 12 results in a monthly income limit of \$1,255. The same income limit of \$1,255 is found in policy.⁵ RFT 242 (April 2024) p. 1. Petitioner's countable income of \$1,272 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.

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.

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 BAM 500). No exceptions were applicable to the present case.

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

⁵ MDHHS policy lists an income limit of \$1,275 while noting the \$20 disregard is factored into the limit.

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.*

Petitioner's RSDI of \$1,292 is unchanged for G2S. The G2S budget allows a \$20 disregard for unearned income and various employment income disregards. COLA is also applicable for January, February, and March budget months. 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 with a \$20 disregard; no other 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.

Subtracting the PIL of \$375 and \$20 unearned income disregard from Petitioner's countable RSDI of \$1,292 results in a monthly deductible of \$897. MDHHS calculated the same deductible. Exhibit A, p. 18.

Petitioner's hearing request indicated she previously received full Medicaid and suggested that no changes in circumstances should result in ongoing Medicaid eligibility. Petitioner should be aware that beginning the benefit month of March 2020, income limits on Medicaid were lax due to the COVID-19 pandemic. The result was thousands of persons not typically eligible for Medicaid due to excess income received full Medicaid despite being over the income limit. Beginning June 2023, MDHHS began redetermining MA benefits while imposing strict income limits. Economic Stability Administration memorandum dated May 10, 2023 (revised June 28, 2023). The result of the policy change is that many full-Medicaid recipients became eligible only for Medicaid subject to a monthly deductible. Presumably, Petitioner is one of those persons.

Petitioner contended that her MA eligibility should be based on 133%-138% of the FPL. Exhibit 1, p. 2. The MAGI program of Healthy Michigan Plan (HMP) is an MA program based on the program limits cited by Petitioner.⁶ BEM 137 (January 2024) p. 3. However, persons receiving Medicare are not eligible for HMP. *Id.*, p. 1. As a Medicare recipient, Petitioner is ineligible to receive Medicaid under the HMP category.

⁶ HMP policy cites an income limit of 133%. BEM 500 additionally lists an additional 5% range for income when the range results in income eligibility.

Petitioner's exhibits cited "ABD care" as a possible MA category for her to be eligible. Exhibit 1, p. 4. It is presumed that the unspecified source for the citation is a reference to AD-Care. Assuming the unspecified source as valid, it states that income requirements must be met for ABD care; as discussed above, Petitioner did not meet the income requirements for AD-Care.

Petitioner also cited sources that Medicaid pays for "long-term-care at home". Exhibit 1, pp. 13-22. Indeed, Medicaid can pay for chore services/home help care and/or services in a person's home who would otherwise be in a long-term-care facility (see BAM 106). However, such assistance requires full-Medicaid eligibility. Petitioner is not eligible for full-Medicaid due to having to meet a deductible.⁷

Petitioner complained that she is eligible for Plan First which adversely affects her ability to obtain full-Medicaid benefits. 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). The income limit for Plan First is 195% of the FPL. BEM 124 (July 2023) p. 2. It is wholly understandable that Petitioner may resent Plan First eligibility because of its seemingly unhelpful benefits to someone in Petitioner's circumstances. However, Petitioner's eligibility for Plan First does not adversely affect eligibility for other MA programs.

Petitioner also complained that eligibility for Medicare Savings Program (MSP) benefit adversely affected Medicaid eligibility. MSP is an SSI-related Medicaid category. BEM 165 (January 2018) p. 1. One of three different subprograms are available under MSP. Qualified Medicare Beneficiaries (QMB) coverage pays for a client's Medicare premiums, coinsurances, and deductibles. BEM 165 (January 2018), 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.* The client's income determines the MSP subprogram issued (see RFT 242).⁸

Persons may be eligible for Medicaid and MSP benefits without MSP affecting Medicaid eligibility. Thus, Petitioner's apparent complaint of MSP eligibility and MDHHS paying for her monthly Medicare premium appears misplaced.⁹ Given the evidence, MDHHS properly determined Petitioner's Medicaid eligibility.

⁷ 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. Petitioner can submit proof of monthly chore service costs to MDHHS for consideration of medical expenses automatically meeting the monthly deductible.

⁸ Since April 2024, MDHHS added a fourth category, Non-Categorically Eligible Michigan Beneficiaries (NMB). BEM 165 (July 2024) p. 1.

⁹ Petitioner testified that the Social Security Administration pays for her Medicare premium, not MDHHS. Though Petitioner's testimony seems unlikely, it is also not relevant to the analysis of Petitioner's Medicaid eligibility.

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 \$897 monthly deductible beginning June 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

Keisha Koger-Roper
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Detroit, MI 48227

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Interested Parties

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Petitioner

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