



GRETCHEN WHITMER
GOVERNOR

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

MARLON BROWN
DIRECTOR

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Date Mailed: January 24, 2025
MOAHR Docket No.: 24-013176
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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 January 8, 2025, from Detroit, Michigan. Petitioner appeared for the hearing and was represented by Authorized Hearing Representative (AHR) ██████████. The Department of Health and Human Services (Department) was represented by Tom Jones, Assistance Payments Supervisor.

ISSUE

Did the Department properly determine Petitioner's eligibility for Medical Assistance (MA) and Medicare Savings Program (MSP) benefits?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On or around ██████████ 2024, Petitioner submitted an application for Medical Assistance (MA) and Medicare Savings Program (MSP) benefits for herself and her husband ██████████.
2. On or around October 22, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice (Notice) advising that effective October 1, 2024, ongoing, Petitioner and her husband were eligible for MA under the limited coverage Plan First category. The Notice also advised that Petitioner and her spouse were ineligible for MSP benefits because they did not meet basic criteria. (Exhibit A, pp. 17-20)
 - a. Although the Notice indicates that Petitioner and her spouse were ineligible for MSP because they did not meet basic criteria, the Department asserted that the household had excess income for MSP eligibility.

3. Petitioner receives monthly income from Retirement Survivors Disability Insurance (RSDI) or Social Security in the amount of [REDACTED] and her husband receives Social Security of [REDACTED] (Exhibit 1)
4. On or around November 21, 2024, Petitioner requested a hearing disputing the Department's actions with respect to the MA program and MSP.

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.

In this case, Petitioner disputed the Department's determination that she and her spouse were ineligible for MSP benefits due to excess income. There were also some questions raised regarding MA eligibility, in light of the Department's determination that Petitioner and her spouse were eligible for MA under the limited coverage Plan First category, as referenced in the October 22, 2024, Notice.

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 (October 2023), p. 1; BEM 137 (June 2020), 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.

HMP is a MAGI-related MA category that provides MA coverage to individuals who (i) are 19 to 64 years of age; (ii) have income under the MAGI methodology at or below 133% of the federal poverty level (FPL); (iii) do not qualify for or are not enrolled in Medicare; (iv) do not qualify for or are not enrolled in other MA programs; (v) are not pregnant at the time of application; and (vi) are residents of the State of Michigan. BEM 137, p. 1; 42 CFR 435.603.

The Department initially asserted that because Petitioner only requested MSP benefits, the Department did not process Petitioner's MA eligibility. However, after some discussion and upon review of the documentation presented during the hearing, it was established that the Department approved Petitioner and her spouse for MA under the limited coverage Plan First category.

Because Petitioner and her spouse are both enrolled in Medicare, they are not eligible for full coverage MA under the HMP. There was also no evidence that Petitioner and her spouse were the parents or caretakers of any minor children. Thus, Petitioner and her spouse are potentially eligible for MA under the Plan First category or SSI-related MA, which is MA for individuals who are blind, disabled or over age 65. BEM 105, p. 1. Individuals are eligible for Group 1 coverage, with no deductible, if their income falls below the income limit, and eligible for Group 2 coverage, with a deductible that must be satisfied before MA is activated, when their income exceeds the income limit. BEM 105, p. 1. Ad-Care coverage is a SSI-related Group 1 MA category which must be considered before determining Group 2 MA eligibility. BEM 163 (July 2017), p. 1. Eligibility for Ad-Care is based on the client meeting nonfinancial and financial eligibility criteria. BEM 163, pp. 1-2. The eligibility requirements for Group 2 MA and Group 1 MA Ad-Care are the same, other than income. BEM 166 (April 2017), pp. 1-2.

Income eligibility for the Ad-Care program is dependent on MA fiscal group size and net income which cannot exceed the income limit in RFT 242. BEM 163, p. 2. Petitioner and her spouse have a MA fiscal group of two. BEM 211 (October 2023), pp. 5-8. Effective April 1, 2024, an MA fiscal group with two members is income-eligible for full-coverage MA under the Ad-Care program if the group's net income is at or below \$1,723.50, which is 100 percent of the Federal Poverty Level, plus the \$20 disregard. RFT 242 (April 2024), p. 1. The Department is to determine countable income according to SSI-related MA policies in BEM 500 and 530 *except* as explained in the countable RSDI section of BEM 163. The Department will also apply the deductions in BEM 540 (for children) or 541 (for adults) to countable income to determine net income. BEM 163, p. 2.

Group 2 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. Individuals are eligible for Group 2 MA coverage when net income (countable income minus allowable income deductions) does not exceed the applicable Group 2 MA protected income levels (PIL), which is based on shelter area and fiscal group size. BEM 105, pp. 1-2; BEM 166, pp. 1-2; BEM 544 (January 2020), p. 1; RFT 240 (December 2013), p. 1. The PIL is a set allowance for non-medical need items such as shelter, food and incidental expenses. BEM 544, p. 1. The monthly PIL for an MA group of two living in ██████ County is \$541 per month. RFT 200 (April 2017), pp. 1-2; RFT 240, p. 1. Thus, if Petitioner's net monthly income is in excess of the \$541, she may become eligible for assistance under the deductible program, with the deductible being equal to the amount that her monthly income exceeds \$541. BEM 545, p. 1. To meet a deductible, a MA client must report and verify allowable medical expenses (defined in Exhibit I) that equal or exceed the deductible amount for the calendar month being tested. The group must report expenses by the last day of the third month following the month in

which client wants MA coverage. BEM 545, p. 11. The Department is to add periods of MA coverage each time the group meets its deductible. BEM 545, p.11.

Although, based on the income limit identified above, Petitioner and her spouse may be ineligible for MA under the full coverage Ad-Care category due to excess income, the Department did not present any evidence that Petitioner's MA eligibility was properly considered under all categories, including the Ad-Care category and the limited coverage Group 2 Aged Blind Disabled (G2S) program subject to a monthly deductible.

MSP are SSI-related MA categories. In September 2024, there were four MSP categories: Qualified Medicare Beneficiaries (QMB); Specified Low-Income Medicare Beneficiaries (SLMB); Additional Low-Income Beneficiaries (ALMB); and Non-Categorically Eligible Michigan Beneficiaries (NMB). BEM 165 (July 2024), p. 1. QMB is a full coverage MSP that pays Medicare premiums (Medicare Part B premiums and Part A premiums for those few people who have them), Medicare coinsurances, and Medicare deductibles. SLMB pays Medicare Part B premiums and ALMB pays Medicare Part B premiums provided funding is available. NMB pays the Medicare Part B premiums (and the part A premiums for the few who have them) for full coverage Medicaid beneficiaries not otherwise eligible for MSP. BEM 165, pp. 1-2.

Income is the major determiner of category. The monthly income limits for Petitioner and her spouse's fiscal group size of two are identified in RFT 242 (April 2024). For QMB eligibility, net income cannot exceed \$1,723.50, which is 100% of the poverty level, plus the \$20 disregard for RSDI income. For SLMB eligibility, net income is between \$1,723.01 and \$2,064, which is over 100% but not over 120% of the poverty level, plus the \$20 disregard for RSDI income. For ALMB eligibility, net income must be between \$2,064.01 and \$2,319.50, which is over 120% but not over 135% of the poverty level, plus the \$20 disregard for RSDI income. RFT 242, p.1; BEM 165, pp. 1-2, 8-10. Thus, to be eligible for MSP benefits, Petitioner and his wife's net income cannot exceed [REDACTED]. The Department is to determine countable income according to the SSI-related MA policies in BEM 500, 501, 502, 503, 504, and 530, except as otherwise explained in BEM 165. RFT 242, pp. 1-2; BEM 165, pp. 8-10. The Department will also apply the deductions in BEM 540 (for children) and BEM 541 (for adults) to countable income to determine net income. BEM 165, pp. 8-10. Because there is no income limit identified in Department policy for NMB eligibility, the Department may activate NMB for the months in which a client has met their monthly deductible.


At the hearing, the Department representative testified that based on Petitioner and her spouse's net income, they were determined ineligible for MSP benefits under the QMB, SLMB, and ALMB categories. While it is possible that Petitioner may have excess income for MSP eligibility under the QMB, SLMB, and ALMB categories, because the Department did not determine whether Petitioner and her spouse were eligible for MA under the G2S category, the Department did not establish that Petitioner and her spouse were ineligible for all MSP categories, including the NMB, which is activated for the months a deductible is met. Thus, the Department will be ordered to redetermine Petitioner's MSP eligibility under all categories.

DECISION AND ORDER

Accordingly, the Department's MA/MSP decisions are **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. Reprocess Petitioner's [REDACTED] 2024, MA/MSP application to redetermine Petitioner and her spouse's MA and MSP eligibility under the most beneficial categories for September 1, 2024, ongoing;
2. If eligible, provide Petitioner and her spouse with MA and MSP coverage under the most beneficial categories that they were entitled to receive but did not from September 1, 2024, ongoing; and
3. Notify Petitioner and her AHR in writing of its decisions.



Zainab A. Baydoun
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
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Interested Parties

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Via First Class Mail:

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