STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

RICK SNYDER
GOVERNOR

SHELLY EDGERTON
DIRECTOR

Date Mailed: February 7, 2018
MAHS Docket No.: 17-011277
Agency No.: ███████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Denise McNulty

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 October 5, 2017, from Detroit, Michigan. The Petitioner was present and represented by ████████████, Authorized Hearing Representative (AHR). ███████████, Community Living Services Benefits Coordinator was also present on the Petitioner's behalf. The Department of Health and Human Services (Department) was represented by ███████████, Hearing Facilitator.

ISSUE

Did the Department properly deny Petitioner's application for 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 May 15, 2017, an application was submitted, on Petitioner's behalf, by the AHR for MSP benefits.

2. On June 21, 2017, the Department sent Petitioner a Health Care Coverage Determination Notice (HCCDN) informing him that he was not eligible for MSP because he did not meet the basic criteria for the program.

3. On August 24, 2017, the Department received Petitioner's request for a hearing disputing the Department's actions.

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 requested a hearing to dispute the Department's denial of his application for MSP benefits. Petitioner submitted an application for MSP on May 15, 2017, and attached earnings statements regarding his earnings. Petitioner receives Retirement, Survivors, and Disability Insurance (RSDI) monthly in the amount of $ Based on the earnings statements the Department calculated Petitioner's weekly earned income to be $ Petitioner disagrees with the use of a weekly earned income of $ The AHR states a Health Care Coverage Supplemental Questionnaire was provided to the Department in May 2017 indicating that Petitioner's income fluctuated weekly and was dependent upon the number of hours he worked. The AHR indicated that paystubs were provided to the Department to illustrate the fluctuation in Petitioner's earnings. [Exhibit 2] A review of the earnings statements for the month of April shows Petitioner worked 32 hours per week for the last three weeks in the month and 28 hours during the first week. Petitioner was paid at the rate of $ per hour. It is found that it was reasonable and in accordance with policy for the Department to use the earnings of $ per week when determining Petitioner's eligibility for MA benefits.

The Department reviewed Petitioner's case for MA eligibility in the best suited program for his circumstances. Petitioner is not: (i) under 21 years of age nor 65 years of age or older; (ii) pregnant; (iii) or a caretaker of a minor child in the home.

Medicare has three parts: Part A (hospital insurance (HI)), Part B (supplementary medical insurance (SMI)), and Part D (prescription drug coverage). BAM 810 (July 2015), p. 1. A person is eligible for Part B if she/he (i) is eligible for Part A, or (ii) is at least age 65, lives in the U.S., and is either a U.S. citizen or an alien lawfully admitted for permanent residence who has lived in the U.S. five consecutive years. BAM 810, p. 3. Generally, a person who is eligible for Part B and is enrolled in Part A is automatically enrolled in Part B, but he/she may refuse Part B. BAM 810, p. 4.

MSP is a State-administered program in which the State pays an income-eligible client's Medicare premiums, coinsurances, and deductibles. BEM 165 (January 2016), pp. 1-2; BAM 810 (July 2015), pp. 1, 4. There are three MSP categories: (1) Qualified Medicare Beneficiaries (QMB), which pays for a client's Medicare premiums (both Part A, if any, and Part B), Medicare coinsurances and Medicare deductibles; (2) Specified Low-Income Medicare Beneficiaries (SLMB), which pays for a client's Medicare Part B premiums; and (3) Additional Low Income Medicare Beneficiaries (ALMB), which pays for a client's Medicare Part B premiums when funding is available. BEM 165, pp. 1-2. The MSP category a client is eligible for is dependent on the client's income. BAM 810, p. 6; BEM 165 (January 2016), p. 1. A client income-eligible for full coverage MA under the AD-Care program is also income-eligible for MSP under the QMB program. RFT 242 (May 2015), p. 1.

For MSP under the QMB program, the net income cannot exceed 100% of Federal Poverty Level (FPL). For MSP under the SLMB program, the net income is over 100% FPL, but not over 120% of poverty. For MSP under the ALMB program, the net income is over 100% poverty, but not over 135% of poverty. BEM 165, p. 1. The income limit for a fiscal group size of one, such as Petitioner's, for QMB is $██████ and for SLMB it is $██████ RFT 242 (April 2017), p. 1.

The Department determined that Petitioner was not income eligible for MSP under the QMB or SLMB programs due to his earned income. As noted above, Petitioner receives RSDI in the amount of $█████ and wages in the amount of $█████ per week. The Department approved Petitioner for MA under the Freedom to Work (FTW) program. A client eligible for MA under FTW is not eligible for ALMB. BEM 174 (January 2017), p. 4.

As such, it is found that the Department acted in accordance with policy when it determined Petitioner was not eligible for MSP benefits.

DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it determined Petitioner was not eligible for MSP benefits.

Accordingly, the Department's decision is **AFFIRMED**.

DM/jaf

Denise McNulty
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

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 Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS 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. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS ████████████████████
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Authorized Hearing Rep. ██████████████
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