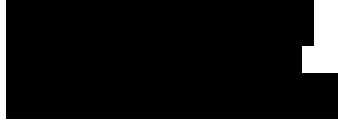




GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR



Date Mailed: March 25, 2020
MOAHR Docket No.: 20-001082
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 telephone hearing was held on March 12, 2020, from Detroit, Michigan. Petitioner appeared and was unrepresented. [REDACTED], Petitioner's spouse (hereinafter, "Spouse"), testified on behalf of Petitioner. The Michigan Department of Health and Human Services (MDHHS) was represented by Aundrea Jones, hearing facilitator. Raven Ross, specialist, observed the hearing.

ISSUE

The issue is whether MDHHS properly denied Medicare Savings Program (MSP) benefits to Petitioner and Spouse.

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 December 16, 2019, Petitioner applied for MSP benefits for himself and Spouse.
2. As of December 2019, Petitioner and Spouse each received Retirement, Survivors, Disability Income (RSDI). Their combined RSDI totaled \$1,934.
3. On January 8, 2020, MDHHS denied Petitioner's application for MSP due to excess income.

4. On [REDACTED], 2020, Petitioner requested a hearing to dispute the denial of MSP.

CONCLUSIONS OF LAW

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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner's written hearing request checked disputes concerning MA and "other". Exhibit A, pp. 13-14. The MA program includes the sub-programs of Medicaid and MSP benefits. Petitioner's testimony clarified that he only intended to dispute a denial of MSP benefits.

A Health Care Coverage Determination Notice dated January 8, 2020, stated that Petitioner's MSP benefits were denied beginning December 2019. The stated reason for denial was that Petitioner was not eligible for MSP in December 2019 because it was for a previous benefit year. During the hearing, MDHHS clarified that Petitioner and Spouse were denied MSP due to excess income.¹

Medicare Savings Programs are SSI-related MA categories. BEM 165 (January 2018) p. 1. Three categories make up MSP. *Id.* 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 funding is available. *Id.* The client's income determines the MSP subprogram issued (see RFT 242).

For MSP income eligibility, MDHHS is to determine countable income according to the SSI-related MA policies in BEM 165, 500, 501, 502, 503, 504 and 530. BEM 165 (October 2016) 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.*

Petitioner and Spouse were married. For purposes of MSP, the benefit group size is two persons. BEM 211 (July 2019) p. 8.

¹ MDHHS should have issued written notice containing the proper basis for denial. Under the circumstances, MDHHS could be ordered to redetermine MSP eligibility and/or to issue proper notice. During the hearing, Petitioner waived his right to proper written notice.

Generally, MDHHS counts the gross amount of RSDI as unearned income.² BEM 503 (July 2017), p. 31. Gross amount means the amount of RSDI before any deduction, such as Medicare. BEM 163 (July 2017), p. 2. As of December 2019, Petitioner's and Spouse's combined gross RSDI was \$1,934 (dropping cents).

For MSP, MDHHS gives a \$20 disregard for unearned income, employment income disregards, guardianship/conservatorship expense credits, and COLA disregards during the benefit months from January through March. The only applicable disregard and/or credit is the standard \$20 disregard to the group's unearned income. Applying the disregard to the group's RSDI results in a net income is \$1,914. MDHHS also calculated Petitioner's group's income to be \$1,914. Exhibit A, p. 9.

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 2 is \$1,903.³ RFT 242 (April 2019), p. 2. Petitioner's group's countable net income of \$1,914 exceeds the highest income limit for MSP eligibility by \$11.

Given the evidence, MDHHS properly denied Petitioner's and Spouse's application for MSP benefits due to excess income. As discussed during the hearing, no known basis for MSP eligibility exists when income exceeds the income limit, even when income only slightly exceeds the income limit. Also, the same eligibility determination would apply to January 2020. The only difference in the budget would be factoring Petitioner's and Spouse's increased RSDI for 2020 and then disregarding the increase in income.⁴

² Exceptions to counting gross RSDI include disregarding cost-of-living adjustments for the benefit months of January-March, special rules for certain former SSI recipients (e.g. 503 individuals), fee deductions for qualified organizations acting as a payee, Medicare premium refunds, returned benefits, and exclusions for retroactive benefits. None of the exceptions apply to the present case.

³ RFT 242 lists an income limit of \$1,923 but goes on to clarify that the true income limit for ALMB is 135% of the Federal Poverty Level plus \$20; this amount is \$1,903.

⁴ Again, for the months of January through March, MDHHS disregards cost-of-living adjustment income. BEM 165 (January 2018) p. 8.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly denied Petitioner's MSP application dated December 16, 2019. The actions taken by MDHHS are **AFFIRMED**.

CG/cg



Christian Gardocki
Administrative Law Judge
for Robert Gordon, 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 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 Email:

MDHHS-Wayne-18-Hearings
D. Smith
EQAD
BSC4- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

