



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED], MI [REDACTED]

Date Mailed: January 21, 2020  
MOAHR Docket No.: 19-012850  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: John Markey**

### **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 15, 2020 from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Hiva Murray, Family Independence Specialist.

### **ISSUE**

Did the Department properly determine Petitioner's eligibility 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. Petitioner is a disabled adult. During all times relevant to the instant matter, Petitioner's monthly income was \$1,278.60, all unearned.
2. Petitioner was an active MSP recipient from the Department. For some reason, the Department issued to Petitioner a notice informing Petitioner that her MSP case would close, effective October 1, 2019 and directing her to reapply for MSP benefits.
3. On [REDACTED], 2019, Petitioner submitted to the Department an application for MSP benefits.
4. On October 18, 2019, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that she was approved for full-coverage

MA benefits, effective October 1, 2019, ongoing. It further informed Petitioner that she was not eligible for MSP benefits. Two different, conflicting reasons were given. First, Petitioner was informed that she was ineligible because her MSP case number had changed and that she would receive a letter showing that she was approved under that new case number. Second, Petitioner was informed that she was ineligible because she was not over 65, blind, or disabled.

5. On November 22, 2019, the Department issued another Health Care Coverage Determination Notice informing Petitioner that she was approved for MA benefits subject to a \$747 monthly deductible, effective January 1, 2020, ongoing. It further informed Petitioner that she was not eligible for MSP benefits.
6. On November 27, 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's determination of her eligibility for MSP benefits.
7. At the hearing, Petitioner indicated that she only applied for MSP benefits and did not request the MA benefits, which were ultimately approved subject to a \$747 monthly deductible. If Petitioner does not want to continue to receive that coverage, she may submit a written request to the Department to have the coverage cancelled.

### **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 objects to the Department's determination of her eligibility for MSP benefits. The Department denied Petitioner's application for MSP benefits because she was allegedly not disabled. However, the evidence on the record shows that Petitioner is disabled. Petitioner is a disabled adult who receives monthly unearned income of \$1,278.60.

MSP benefits are SSI-related MA categories. There are three categories of MSP benefits including the Qualified Medicare Beneficiary (QMB), the Special Low Income Medicare Beneficiary (SLMB), and the Additional Low Income Medicare Beneficiary

(ALMB). QMB pays Medicare premiums, and Medicare coinsurances, and Medicare deductibles. QMB coverage begins the calendar month after the processing month. SLMB pays Medicare Part B premiums. SLMB coverage is available for retro MA months and later months. ALMB pays Medicare Part B premiums provided funding is available. ALMB coverage is available for retro MA months and later months. BEM 165 (January 2018), pp. 2-4. Income eligibility for MSP benefits exists when net income for the fiscal group is within the limits in RFT 242 or 247. The Department is to determine countable income according to the SSI-related MA policies in BEM 500 and 530, except as otherwise explained in BEM 165. RFT 242 (April 2019), pp. 1-2; BEM 165 (January 2018), pp. 7-8. Gross RSDI income is counted. BEM 165, p. 8.

Petitioner was not married. Thus, Petitioner's fiscal group size is one. BEM 211 (February 2019), p. 8. For a fiscal group size of one, the highest possible monthly income for eligibility is \$1,426, which amounts to 135% of the federal poverty limit plus a \$20 disregard for RSDI income. Petitioner's monthly RSDI income was \$1,278.60 during the entire relevant time period. Petitioner had no deductible expenses. BEM 541 (January 2019). Thus, Petitioner's countable income did not exceed the limit for program eligibility.

During the hearing, the Department witness conceded that the Department did not properly determine Petitioner's eligibility for MSP benefits. The evidence presented confirms that to be the case. Petitioner is disabled and is income eligible for MSP benefits.

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 did not act in accordance with Department policy when it denied Petitioner's October 15, 2019 MSP application.

### **DECISION AND ORDER**

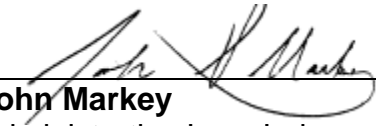
Accordingly, the Department's decision is **REVERSED**.

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 October [REDACTED], 2019 MSP application;
2. If any eligibility-related factors remain unclear, inconsistent, contradictory, or incomplete, follow Department policy regarding verifications;
3. Determine Petitioner's eligibility for MSP benefits from the date of application, ongoing;

4. If Petitioner is eligible for additional benefits that were not provided, ensure that a prompt supplement is issued; and
5. Notify Petitioner in writing of its decisions.

JM/tlf

  
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**John Markey**  
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-19-Hearings  
BSC4 Hearing Decisions  
EQAD  
D. Smith  
MOAHR

**Petitioner – Via First-Class Mail:**

  
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