



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

[REDACTED]  
[REDACTED], MI [REDACTED]

Date Mailed: October 14, 2020  
MOAHR Docket No.: 20-003368  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Colleen Lack

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 September 9, 2020. [REDACTED] the Petitioner, appeared on her own behalf. [REDACTED] Caregiver, appeared as a witness for Petitioner. The Department of Health and Human Services (Department) was represented by Lori Aumick, Hearing Facilitator. Misty Huffman, Eligibility Specialist, appeared as a witness for the Department.

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-43. Petitioner's document packet was admitted as Exhibit 1, pp. 1-24. As discussed on the record, some portions of Exhibit 1 are not relevant as they relate to subsequent Department actions. This packet was forwarded for processing as a separate hearing request to address those action(s).

**ISSUE**

Did the Department properly deny Petitioner's application for the Medicare Savings Program (MSP) Specified Low-Income Medicare Beneficiaries (SLMB) category?

**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 [REDACTED] 2019, Petitioner applied for the MSP to assist with paying Medicare Premiums. (Exhibit A, pp. 4-10)
2. The Department received income verifications. (Exhibit A, pp. 11-21)
3. Petitioner's December 2019 Social Security Administration issued RSDI benefit was [REDACTED]. (Exhibit A, pp. 11-12)

4. Petitioner receives [REDACTED] per month from an IRA payout distribution. (Exhibit A, pp. 13-21)
5. The Department determined that Petitioner was not eligible for the MSP because her income exceeded program limits. (Exhibit A, p. 3; Hearing Facilitator and Eligibility Specialist Testimony)
6. On February 11, 2020, a Health Care Coverage Determination Notice was issued to Petitioner denying the application for the MSP. (Exhibit A, pp. 23-25)
7. On May 11, 2020, Petitioner requested a hearing contesting the MSP determination for the SLMB category. (Exhibit A, pp. 27-35)

### **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.

BEM 165 addresses the MSP:

This item describes the three categories that make up the Medicare Savings Programs. The three categories are:

1. Qualified Medicare Beneficiaries (QMB).

This is also called full-coverage QMB and just QMB.  
Program group type is QMB.

2. Specified Low-Income Medicare Beneficiaries (SLMB).

This is also called limited-coverage QMB and SLMB.  
Program group type is SLMB.

3. Q1 Additional Low-Income Medicare Beneficiaries (ALMB).

This is also referred to as ALMB and as just Q1.  
Program group type is ALMB.

There are both similarities and differences between eligibility policies for the three categories. Benefits among the three categories also differ.

Income is the major determiner of category.

QMB	Net income <b>cannot</b> exceed 100% of poverty.
SLMB	Net income is over 100% of poverty, but <b>not</b> over 120% of poverty.
ALMB (Q1)	Net income is over 120% of poverty, but <b>not</b> over 135% of poverty.

BEM 165, January 1, 2018, p. 1

Federal law requires that for January, February and March:

- The RSDI cost-of-living increase received starting in January be disregarded for fiscal group members, and
- The income limits for the preceding December be used.

For all other months, countable RSDI means the countable amount for the month being tested.

### **Countable RSDI**

Enter countable RSDI for the month being tested. When the month being tested is January, February or March, Bridges will automatically:

- Computes and deducts the RSDI cost-of-living increase for fiscal group members, and
- Uses the limits for the preceding December.

BEM 165, January 1, 2018, pp. 8-9

RFT 242 addresses the MSP monthly income limits. Effective April 1, 2019, the SLMB monthly limit was \$1067.01-\$1,269.00 This limit includes the \$20.00 disregard for RSDI income. RFT 242, April 1, 2019, pp. 1-2.

Petitioner explained that she applied in [REDACTED] 2019 for SLMB for January, February, and March 2020. Petitioner contested that the SLMB determination was based on the 2019 income limits rather than the 2020 income limits. Petitioner also indicated she understood there were two \$20.00 disregards, one for the RSDI cost of living increase and the other referenced in RFT 242 as a \$20.00 disregard for RSDI income. (Exhibit A, pp. 27-35; Exhibit 1, p. 2; Petitioner Testimony)

However, the above cited BEM and RFT policies are clear that for January, February, and March, the Department must use the December 2019 RSDI income and the 2019 income limits to determine MSP eligibility. There is no additional \$20.00 disregard for RSDI cost of living increase. Further, as stated in RFT 242, the listed income limits already include the \$20.00 disregard for RSDI income.

The Department properly used Petitioner's December 2019 RSDI income to determine SLMB eligibility for January, February, and March 2020. Petitioner's December 2019 RSDI income was [REDACTED]. (Exhibit A, pp. 11-12) Petitioner also receives [REDACTED] per month from an IRA payout distribution. (Exhibit A, pp. 13-21) Accordingly, Petitioner's total monthly income was [REDACTED] This exceeds the SLMB income limit of \$1067.01-\$1,269.00.

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 denied Petitioner's [REDACTED] 2019 application for the MSP, specifically the SLMB category.

#### **DECISION AND ORDER**

Accordingly, the Department's decision is AFFIRMED.

CL/ml



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Colleen Lack  
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

**DHHS**

Lori Aumick  
Genesee (District 6 Clio Rd) MDHHS – via  
electronic mail

BSC2 – via electronic mail

D. Smith – via electronic mail

EQAD – via electronic mail

**Petitioner**

[REDACTED] – via first class mail  
[REDACTED] MI [REDACTED]