



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: March 12, 2021  
MOAHR Docket No.: 20-008225  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Janice Spodarek**

**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, an administrative hearing was held on March 11, 2021.

Petitioner personally appeared and testified unrepresented.

The Department of Health and Human Services (Department) was represented by Gloria Thompson, FIM, and gloria Bell, ES Worker.

The Department Exhibit A.26 was offered and admitted into the record.

**ISSUE**

Did the Department properly close and properly deny Petitioner's subsequent reapplication for QMB, SLM, and ALMB?

**FINDINGS OF FACT**

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

1. At all relevant times to the issues herein, Petitioner's income consisted of \$[REDACTED] RSDI income.
2. In October 2020, Petitioner's ALMB case was reviewed.

3. On December 3, 2020, the Department issued a Health Care Coverage Determination Notice to Petitioner informing him that his ALMB Medicare Savings Program will close effective January 1, 2021 due to excess income.
4. ALMB income limit is \$1,436.00.
5. On [REDACTED] Petitioner reapplied for ALMB. The Department denied Petitioner's reapplication on the grounds of excess income.
6. On December 28, 2020, Petitioner filed a hearing request.

### **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.

Individuals asserting eligibility at application for welfare benefits have the burden of proof by a preponderance of evidence. In cases where the Department issues an adverse action, the Department has the burden of going forward to bring forth sufficient evidence to support the action taken; then the burden shifts to the Petitioner.

Applicable policy to the case herein deals with income limits on various Medicare Savings Programs. Petitioner is in a fiscal group of 1. RFT 242 indicates that the AD-Care/QMB program has a monthly income limit of \$1,061.00. For SLM, the monthly income limit is 1,269.00. For ALMB, the income limit is \$1,426.00. RFT 242, RF 2020-004, Effective 4-1-2020.

In this case, unrefuted evidence of record is that Petitioner's RSDI gross income is \$[REDACTED]. The Department witnesses' in this matter testified that there are no deductions or disregards from the RSDI income in determining eligibility for the Medicare Savings Programs. Rather income disregards and percentage of the Federal Poverty Limit (FPL) are only applied to Medicaid eligibility, not at issue herein. As applied to the policy herein, Petitioner's RSDI income of \$[REDACTED] puts him over the cap for all three programs.

Petitioner argued that he should be entitled to deduction his Part B expense of \$148.00 per month from his RSDI income in order to determine eligibility for assistance with the Part B payment. However, Petitioner offered no law, policy, or authority otherwise that would allow such a deduction in the calculation for the Medicare Savings Program.

Based on the evidence of record presented by the Department, Petitioner is not eligible for the Medicare Savings Programs due to excess income, and thus, the closure and denial of his reapplication is upheld.

**DECISION AND ORDER**

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

JS/ml



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Janice Spodarek  
Administrative Law Judge  
for Elizabeth Hertel, 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**

Tara Roland 82-17  
Wayne (Dist 17) County DHHS – via  
electronic mail

BSC4 – via electronic mail

C. George – via electronic mail

EQAD – via electronic mail

**Petitioner**

██████████ – via first class mail

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