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GOVERNOR

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

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DIRECTOR

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Date Mailed: March 7, 2022  
MOAHR Docket No.: 21-005973  
Agency No.: ██████████  
Petitioner: ██████████

**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 hearing was held via telephone conference on March 2, 2022. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Brenda Drewnicki, hearing facilitator.

**ISSUE**

The issue is whether MDHHS properly denied Petitioner's application for Medicare Savings Program (MSP).

**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 September 30, 2021, Petitioner applied for MSP.
2. On November 10, 2021, MDHHS denied MSP to Petitioner due to excess assets.
3. As of November 2021, Petitioner was an unmarried individual receiving \$██████ in gross monthly Retirement, Survivors, Disability Income (RSDI).
4. As of November 2021, Petitioner had no guardianship or conservator expenses.
5. On November 30, 2021, Petitioner requested a hearing to dispute the denial of MSP benefits.

6. On December 17, 2021, reprocessed Petitioner's MSP application and denied Petitioner's MSP eligibility due to excess income.

### **CONCLUSIONS OF LAW**

The 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. MDHHS administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MA policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute a denial of MSP benefits. Exhibit A, p. 4. A Health Care Coverage Determination Notice dated November 10, 2021, stated that Petitioner was denied due to excess assets. Exhibit A, pp. 5-7. MDHHS testified that Petitioner's application was incorrectly denied due to excess assets and it reprocessed Petitioner's application. The result of reprocessing was again a denial of MSP. A Benefit Notice dated December 17, 2021, stated that Petitioner was denied MSP due to excess income. Exhibit A, pp. 8-11.

MSP is an SSI-related Medicaid category. BEM 165 (January 2018) p. 1. One of three different types of subprograms are available under MSP. Qualified Medicare Beneficiaries (QMB) coverage pays for a client's Medicare premiums, coinsurances, and deductibles. BEM 165 (January 2018), 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 MDHHS funding is available. *Id.* The client's income determines the MSP subprogram issued (see RFT 242).

For MSP 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.*

It was not disputed that Petitioner was an unmarried individual. As an unmarried individual, for purposes of MSP, Petitioner's group size is one.<sup>1</sup>

It was also not disputed that Petitioner received gross monthly income of \$██████ from RSDI. Generally, MDHHS counts the gross amount of RSDI in determining MA eligibility.<sup>2</sup> BEM 503 (April 2019), p. 28. For MSP, Petitioner's monthly countable income is \$██████.

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<sup>1</sup> See BEM 211 for determining the group size for MA benefits.

<sup>2</sup> Exceptions to counting gross RSDI include the following: certain former SSI recipients (e.g., disabled-adult children, 503 individuals, and early widowers), retroactive RSDI benefits, Medicare premium

For MSP, MDHHS allows a standard \$20 disregard for unearned income, disregards for employment income, guardianship/conservatorship expense credits, and a disregard for cost of living adjustments (January through March only). The only applicable disregard and/or credit is the standard \$20 disregard for unearned income. Applying the disregard to Petitioner's RSDI results in a net income is \$ [REDACTED]

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 1 is \$1,449.<sup>3</sup> RFT 242 (April 2021) p. 1. Petitioner's countable net income exceeds the highest income limit for MSP eligibility. Thus, MDHHS properly denied Petitioner's application for MSP benefits due to excess income.

### **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 application for MSP dated September 30, 2021. The actions taken by MDHHS are **AFFIRMED**.

CG/mp



**Christian Gardocki**

Administrative Law Judge

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refunds, fee deductions made by qualified organizations acting as payee, and "returned benefits" (see BAM 500). No exceptions were applicable to the present case.ga

<sup>3</sup> MDHHS policy lists an income limit of \$1,469 while noting that the \$20 disregard is already factored.

