



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: May 9, 2022
MOAHR Docket No.: 22-000760
Agency No.: ██████████
Petitioner: ██████████ ██████████

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 April 13, 2022. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Mia Holley, Eligibility Specialist.

ISSUE

Did the Department properly determine Petitioner's Medicare Savings Program (MSP) eligibility?

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 ██████ years old, not married, and has no dependents.
2. Petitioner's receives Retirement Survivors Disability Insurance (RSDI) benefits totaling \$██████████ per month.
3. Petitioner receives \$██████████ per month as part of a divorce settlement.
4. On ██████████, 2021, Petitioner submitted an application for MSP.
5. As of the December 2021 application, Petitioner had assets totaling \$██████████ between two accounts.
6. On December 9, 2021, Petitioner submitted a Health Care Supplemental Questionnaire via the Bridges online portal, four days before the due date.

7. On [REDACTED] 2022, the Department issued a Health Care Coverage Determination Notice (HCCDN) to Petitioner which stated she was not eligible for MSP for the month tested because it was in the previous year, she failed to return to the Health Care Supplemental Questionnaire, her income exceeded the limit for the program, and had assets greater than the limit.
8. On January 19, 2022, the Department received Petitioner's request for hearing disputing the denial of MSP benefits.

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 disputes the Department's decision to deny her [REDACTED] 2021 application. Petitioner submitted the [REDACTED] 2021 application seeking the assistance of the MSP and she was denied on the basis of her failure to submit a health care supplemental questionnaire, excess income, excess assets, and because the month of application was in the year prior to the time that the determination was made.

MSP is a form of MA benefits and is considered a Supplemental Security Income (SSI)-related MA category. BEM 165 (October 2020), p. 1. The MSP is divided into three subcategories. BEM 165 (October 2020), p. 1. Qualified Medicare Beneficiary (QMB) is the full coverage MSP. BEM 165, p. 1. Specified Low-Income Medicare Beneficiary (SLMB) is a limited coverage MSP. *Id.* The third MSP category is the Additional Low-Income Medicare Beneficiary (ALMB). *Id.* QMB pays for Medicare premiums, coinsurances, and deductibles. BEM 165, p. 2. SLMB pays Medicare Part B premiums. *Id.* ALMB pays for Medicare Part B premiums if funding is available. *Id.*

Assets determine eligibility for MSP coverage. The asset limit for a group size of one effective January 1, 2021 is \$7,970.00. The Department testified that Petitioner had total countable assets of \$[REDACTED] at the time of her [REDACTED] 2021 application. Therefore, her assets were less than the asset limit and Petitioner was not properly denied MSP benefit based upon excess assets.

Income also determines placement in the programs. BEM 165, p. 1. For QMB, net income cannot exceed 100% of the federal poverty level, the same as AD-Care, another SSI-related MA category. *Id.* SLMB is available for individuals whose income is over 100% of the federal poverty level, but not more than 120% of the federal poverty level. *Id.* Finally, ALMB is available to those whose income exceeds 120% of the federal poverty level but does not exceed 135%. *Id.*

Petitioner has RSDI income of \$[REDACTED] per month and a divorce settlement income of \$[REDACTED] per month. RSDI and divorce settlements, otherwise known as spousal support, are both countable forms of income for MA purposes. BEM 503 (April 2021), pp. 30, 33.

MSP requires that net group income be considered. BEM 168, pp. 8. The 2021 federal poverty level (FPL) for a one-person household is \$12,880.00 annually or \$1,073.33 per month. <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines/prior-hhs-poverty-guidelines-federal-register-references>. The net income limit is established by adding \$20.00 to the FPL as seen in RFT 242, \$1,094.00 for a group size of one effective April 1, 2021. RFT 242 (November 2021), p. 1.

Countable income is calculated by adding the amounts of income actually received or reasonably anticipated within the month. BEM 530 (April 2020), p. 2. Petitioner has gross income of \$[REDACTED]. Next, \$20.00 is subtracted for the general exclusion and Petitioner's Net Income is \$[REDACTED]. BEM 541 (January 2022), p. 3. Petitioner is not eligible for QMB as her income exceeds the FPL and income limit; however, Petitioner is eligible for SLMB because her income falls below 120% of the FPL (\$1,288.00). Petitioner was not properly denied MSP benefits based upon her income.

Next, QMB coverage is available in the calendar month after the month the request is processed and is not available for the past months or the processing month. BEM 165, pp. 3-4. SLMB is available for retroactive months and later months. BEM 165, p. 4. ALMB is available for retroactive months and later months; however, it is not available for any time in a previous calendar year. *Id.* Since Petitioner is both income and asset eligible for MSP SLMB coverage, she may receive retroactive and later coverage. Furthermore, Petitioner's application having been in a prior calendar year is not relevant as she would not be placed in the MSP ALMB category but rather in the greater eligibility category of SLMB.

Finally, the Department denied Petitioner's application for failure to submit a questionnaire. Petitioner credibly testified that she had submitted the questionnaire through her Bridges online portal on December 9, 2021, four days prior to the due date. The Department did not dispute receipt of the questionnaire. Therefore, Petitioner was not properly denied MSP benefits for failure to return the requested information.

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 [REDACTED] 2021 application for MSP.

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 [REDACTED] 2021 application for MSP;
2. If otherwise eligible, issue supplements to Petitioner or on her behalf for benefits not previously received; and,
3. Notify Petitioner in writing of its decision.

AM/mp



Amanda M. T. Marler
Administrative Law Judge

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

Email Recipients:

MDHHS-Wayne-15-Greydale-Hearings
EQAD Hearings
C. George
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First-Class Mail Recipient:

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