



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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██████████, MI ██████████

Date Mailed: May 11, 2022
MOAHR Docket No.: 22-001482
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 May 5, 2022, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Markita Mobley, Assistance Payments Supervisor.

ISSUE

Did the Department properly deny Petitioner's Medical Assistance (MA) and Medicare Savings Program (MSP) application?

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 ██████████ 2022, Petitioner submitted an application for MA and MSP benefits.
2. On January 31, 2022, Petitioner submitted verification of her bank account balance (Exhibit A, p. 9).
3. On February 25, 2022, the Department sent Petitioner a Health Care Coverage Determination Notice informing her that her application for MA and MSP was denied.
4. On ██████████ 2022, Petitioner submitted a request for hearing disputing the Department's actions.

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 submitted an application for MA and MSP benefits. On January 22, 2022, Petitioner submitted a bank statement showing she had a balance of \$[REDACTED] in her account. The Department denied Petitioner's application due to excess assets.

As Petitioner is a Medicare recipient and is not the caretaker of any minor children, she is only eligible for the SSI-related MA programs. For SSI-related MA programs, countable assets cannot exceed the limit under BEM 400. BEM 165 (January 2018), p. 8. Countable assets are determined based on MA policies in BEM 400, 401 and 402. BEM 165, p. 8. MSPs are also SSI-related MA categories. BEM 165, p. 1. For SSI-Related MA the Department will utilize an asset verification program to electronically detect unreported assets belonging to applicants and beneficiaries. BEM 400 (January 2018), p. 1. Asset detection may include the following sources at financial institutions: checking, savings, and investment accounts, IRAs, treasury notes, certificates of deposit (CDs), annuities and any other asset that may be held or managed by a financial institution. BEM 400, p. 1. All types of assets are considered for SSI-related MA categories. BEM 400, p. 3. The Department is to exclude SSA-issued SSI benefits for nine calendar months. BEM 400, p. 24. As Petitioner was married, her SSI-related MA group is two. BEM 211 (January 2016), p. 8. The asset limit for a group of two for SSI-related MA is \$3,000. BEM 400, p. 8. Effective January 1, 2021, the asset limit for a group of two for MSP benefits is \$11,960. BEM 400, p. 8.

At the hearing, Petitioner testified that she was approved for SSI benefits and received retroactive benefits on January 25, 2022, in the amount of \$[REDACTED]. Petitioner conceded that the remainder of the funds in her account were her savings. Petitioner also testified that her employer recouped previously issued disability benefits on February 25, 2022, in the amount of \$[REDACTED].

At the time of application, Petitioner had a total amount of \$[REDACTED] in her account. The Department erred when it considered the total amount in Petitioner's account when

determining her asset eligibility. Per policy, the funds paid for retroactive SSI benefits should have been excluded for nine calendar months. With the exclusion of Petitioner's retroactive SSI payment, her asset total was \$[REDACTED]. Petitioner's asset total still exceeded the income limit for SSI-related MA. However, Petitioner was under the asset limit for the MSP program. Therefore, the Department did not act in accordance with policy when it denied Petitioner's MSP application for excess assets.

DECISION AND ORDER

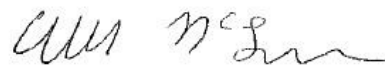
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it denied Petitioner's application for MA benefits. The Department did not act in accordance with Department policy when it denied Petitioner's application for MSP benefits.

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to the MA program and **REVERSED IN PART** with respect to the MSP program.

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. Reinstate and reprocess Petitioner's application for MSP benefits;
2. If Petitioner is eligible for MSP benefits, issue benefits in accordance with Department policy; and
3. Notify Petitioner of its decision in writing.

EM/tm



Ellen McLemore
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-57-Hearings
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