



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: July 14, 2022  
MOAHR Docket No.: 22-002509  
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 July 13, 2022, from Detroit, Michigan. Petitioner was present and represented himself. The Department of Health and Human Services (Department) was represented by Valarie Foley, Hearing Facilitator.

**ISSUE**

Did the Department properly deny Petitioner's wife's application for Medicare Savings Program (MSP) benefits?

**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's wife submitted an application for MSP benefits.
2. Petitioner had unearned income in the form of Retirement, Survivors and Disability Insurance (RSDI) benefits in the gross amount of \$██████████ per month and his wife had unearned income in the form of RSDI benefits in the gross amount of ██████████ per month (Exhibit A, pp. 12-14).
3. Petitioner had earned income from employment (Exhibit A, pp. 6-10).
4. On June 8, 2022, the Department sent Petitioner a Health Care Coverage Determination Notice informing him that his wife's application for MSP benefits was denied (Exhibit A, pp. 31-34).

5. On [REDACTED], 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's wife submitted an application for MSP benefits. The Department testified that Petitioner's wife was not eligible for MSP benefits due to excess income.

MSP are SSI-related MA categories. There are three MSP categories: Qualified Medicare Beneficiaries (QMB); Specified Low-Income Medicare Beneficiaries (SLMB); and Additional Low Income Beneficiaries (ALMB). BEM 165 (January 2018), p. 1. QMB is a full coverage MSP that pays: Medicare premiums (Medicare Part B premiums and Part A premiums for those few people who have them); Medicare coinsurances; and Medicare deductibles. SLMB pays Medicare Part B premiums and ALMB pays Medicare Part B premiums provided funding is available. BEM 165, pp. 1-2. Income eligibility for MSP benefits exists when net income is within the limits in RFT 242 or 247. The Department determines countable income according to the SSI-related MA policies in BEM 500, 501, 502, 503, 504 and 530, except as explained in BEM 165. BEM 165, p. 8. The Department will apply the deductions in BEM 540 and BEM 541 to countable income to determine net income. BEM 165, p. 8.

The Department testified that based on Petitioner's household income, his wife was not eligible for MSP benefits under any of the three categories. Effective April 1, 2022, for QMB, the monthly income limit for a group size of two is \$1,546, which is 100 percent of the Federal Poverty Level, plus the \$20 disregard. RFT 242, p. 1. For SLMB, the monthly income limit for Petitioner's group size of two is \$1,851, which is 120 percent of the Federal Poverty Level, plus the \$20 disregard. RFT 242, p. 2. For ALMB, the monthly income limit for Petitioner's group size of two is \$2,080, which is 135 percent of the Federal Poverty Level, plus the \$20 disregard. RFT 242, pp. 1-3. RFT 242, p. 3.

Petitioner was living with his spouse. Therefore, per policy, Petitioner's wife's fiscal group size for SSI-related MA is two. BEM 211 (January 2016), p. 8. As such, Petitioner's household income cannot exceed \$2,080 to qualify for MSP benefits. The Department presented an MSP budget to show that Petitioner's household income exceeded the income limit for MSP benefits (Exhibit A, p. 30).

The Department included [REDACTED] in unearned income. The Department presented Petitioner's State Online Query report showing he has gross RSDI benefits in the monthly amount of [REDACTED]. The Department testified that Petitioner's wife also has RSDI benefits in the gross monthly amount of [REDACTED]. Petitioner conceded those figures were correct. However, Petitioner argued that his wife's net RSDI income is around \$[REDACTED] per month, due to the deduction of her Medicare Part B premium. Per policy, the Department is to consider the gross RSDI benefit amount. BEM 501, p. 29. Therefore, the Department properly determined that Petitioner's household had \$[REDACTED] in unearned income per month.

Petitioner also had income from employment. In determining earned income for SSI-related MA, the Department only averages self-employment income. BEM 520 (July 2017), p. 2. For all other income, the Department uses non-averaged income or the amounts actually received/available in past months. BEM 530, p. 2. During the processing month, the Department uses income already received in the processing month. BEM 530, p. 3. For future months, the Department will use amounts that will be, or are likely to be, received/available in future months. BEM 530, p. 3. When an individual's income fluctuates, policy sets forth guidelines for prospecting income such as using paystubs that show year-to-date earnings or talking to the client. BEM 530, p. 4.

The Department included [REDACTED] in earned income from Petitioner's income from employment. Petitioner was paid on April 14, 2022, in the gross amount of [REDACTED]; on April 21, 2022, in the gross amount of \$[REDACTED] on April 28, 2022, in the gross amount of [REDACTED]; and on May 5, 2022, in the gross amount of [REDACTED]. When adding the figures together, it equals \$[REDACTED]. At the hearing, Petitioner disputed the calculation of his earned income. Petitioner stated the Department improperly included his overtime pay from the paychecks submitted. At the hearing, Petitioner conceded that he works overtime most weeks. Therefore, the figures including Petitioner's overtime are reflective of his regular pay. Thus, the Department properly calculated Petitioner's earned income.

MSP allows for budget credits for guardianship and/or conservator expenses and cost of living adjustments (COLA) (for January through March only). BEM 541, p. 3. Petitioner did not allege any such factors were applicable.

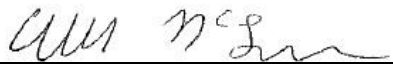
For SSI-related MA the Department will disregard \$65 plus  $\frac{1}{2}$  of the fiscal group's remaining earnings. BEM 541, p. 3. RFT 295 is used to determine the amount. For an earned income amount of [REDACTED], the total disregard would be \$1,696. RFT (December 2013), p. 39. Therefore, Petitioner's net earned income is \$[REDACTED].

Petitioner's and Petitioner's wife's unearned income of \$ [REDACTED] combined with Petitioner's net earned income of \$ [REDACTED] results in a total countable household income of \$ [REDACTED]. As stated above, Petitioner's wife's household income cannot exceed \$2,080. Therefore, the Department acted in accordance with policy when it determined Petitioner's wife was not eligible for MSP benefits.

### **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 wife's application for MSP benefits. Accordingly, the Department's decision is **AFFIRMED**.

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**Ellen McLemore**  
Administrative Law Judge

