



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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[REDACTED] MI [REDACTED]

Date Mailed: January 3, 2023
MOAHR Docket No.: 22-004818
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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 December 5, 2022, from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Sabrina Hopkins, Family Independence Program Manager.

ISSUE

Did the Department properly deny Petitioner's application for Medicare Savings Program (MSP) benefits due to excess assets?

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 or around [REDACTED] 2022, Petitioner submitted an application requesting MSP benefits.
2. On or around September 23, 2022, the Department sent Petitioner a Health Care Coverage Determination Notice (Notice) advising her that effective August 1, 2022, she was determined ineligible for MSP benefits because the value of her countable assets is higher than allowed. (Exhibit A, pp. 5-7)
3. On or around October 21, 2022, Petitioner requested a hearing disputing the Department's denial of her MSP application. (Exhibit A, pp. 3-4)

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.

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 (October 2020), 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. For MSP eligibility, countable assets cannot exceed the asset limit outlined in BEM 400 and countable assets are determined based on MA policies in BEM 400, 401, and 402. BEM 165, p. 8.

Asset eligibility is required for MA coverage under SSI-related MA categories, which are categories providing MA coverage to individuals who are aged, blind or disabled. BEM 400 (April 2022), p. 1-2, 6; BEM 105 (January 2022), p. 1. Checking and savings accounts are assets. The Department will consider the value of cash assets (which includes money in checking and savings accounts) in determining a client's asset eligibility for MA. BEM 400, pp. 14-15. Asset eligibility will exist when the asset group's countable assets are less than, or equal to, the applicable asset limit at least one day during the month being tested. BEM 400, p. 6. For MSP cases, effective January 1, 2022, the asset limit for Petitioner's MA asset group size of one is \$8,400. BEM 400, pp. 7-8; BEM 211 (July 2019), pp. 1-9.

In this case, the Department denied Petitioner's [REDACTED] 2022, application contending that Petitioner was ineligible for MSP because the value of her countable assets exceeded the limit for MSP eligibility. At the hearing, the Department did not present an MA Asset Budget for review showing the exact breakdown of assets considered. The Department representative testified that in making the determination that Petitioner had excess assets and ineligible for MSP benefits, it relied upon a bank statement on file for Petitioner from November 2020 which reflected a balance of \$14,616. The Department representative confirmed that it did not send a verification checklist or other request for verification in order to obtain the correct or current bank

account asset information as of the application date. Petitioner disputed that the cash assets in her bank accounts exceeded the asset limit for MSP. Petitioner presented some updated bank statements for review and testified that in 2019, she received a disability back payment which is the reason the November 2020 bank statement reflected a higher balance. (Exhibit 1).

As referenced above, the Department is to determine asset eligibility in the application month. Therefore, because the Department relied upon outdated bank account asset information from November 2020, the Department failed to establish that as of the [REDACTED] 2022, application date, Petitioner was ineligible for MSP benefits due to excess assets.

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] 2022, MSP application.


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. Register and reprocess Petitioner's [REDACTED] 2022, MSP application;
2. If eligible, provide MSP coverage to Petitioner for any MSP benefits she was entitled to receive but did not from the application date, ongoing; and
3. Notify Petitioner in writing of its decision.

ZB/ml



Zainab A. Baydoun
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

Via Electronic Mail :

DHHS
Richard Latimore
Wayne-Conner-DHHS
4733 Conner
Detroit, MI 48215
**MDHHS-Wayne-57-
Hearings@michigan.gov**

Interested Parties

BSC4
M Schaefer
EQAD
MOAHR

Via First Class Mail :

Petitioner

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