



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED] MI [REDACTED]

Date Mailed: January 6, 2023  
MOAHR Docket No.: 22-005252  
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 8, 2022, from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Ryan Kennedy, Hearing Facilitator.

### **ISSUE**

Did the Department properly determine Medical Assistance (MA) and Medicare Savings Program (MSP) eligibility for Petitioner and her husband?

### **FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. In or around [REDACTED] 2020, Petitioner submitted an application requesting MA and MSP benefits. The Department asserted that there were no assets reported on the application and as a result, Petitioner was approved for MA and MSP benefits.
2. Petitioner was approved for MA and MSP benefits effective October 1, 2020.
3. On or around [REDACTED] 2021, an application was submitted to the Department requesting MA and MSP benefits for Petitioner's husband, Paul. On the application, Petitioner reported that she was the joint owner of a checking account at [REDACTED] that had a balance of \$38,635.81. (Exhibit B, pp. 3-9)
4. The Department failed to process the [REDACTED] 2021, request for MA and MSP for Petitioner's husband.

5. On or around [REDACTED] 2022, an application was submitted to the Department requesting MA and MSP benefits for Petitioner's husband, Paul. On the application, Petitioner reported that her husband was the joint owner of two bank accounts with Bank of America which had a balance of \$28,752. (Exhibit A, pp. 5-13)
6. In processing the [REDACTED] 2022, application, the Department became aware that the earlier request for MA and MSP received on [REDACTED] 2021, had not been processed. As a result, the Department began processing MA and MSP eligibility for Petitioner's husband as of [REDACTED] 2021. A ticket was submitted to the Bridges Help Desk. (Exhibit A, pp. 14-16)
7. During an application interview on or around October 25, 2022, Petitioner confirmed that the reported value of the cash assets on the applications was correct.
8. The Department determined that Petitioner and her husband were ineligible for MA and MSP benefits due to excess assets.
9. An asset detection report from April 2019 to [REDACTED] 2021 was completed by the Department and showed that as of October 1, 2020, Petitioner's joint checking account at Bank of America account had a balance of \$57,812.93. (Exhibit B, pp. 1-2)
10. Petitioner did not dispute that the bank account balance information obtained through the asset detection report or as reported on the [REDACTED] 2021, and [REDACTED] 2022, applications were correct.
11. The Department determined that Petitioner was invalidly enrolled in the MA and MSP at the time of initial approval effective October 1, 2020, and initiated the closure of her cases pursuant to the guidelines outlined in the COVID FAQ Medicaid Closures V9 document, specifically, Appendix item #4. (Exhibit A, pp. 14-23)
12. On or around October 20, 2022, the Department sent Petitioner a Health Care Coverage Determination Notice (Notice), advising her that effective November 1, 2022, her MA and MSP cases would be closed. (Exhibit A, pp. 24-27)
  - a. Although the Notice has several denial reasons including that Petitioner is ineligible due to not being aged, blind, or disabled, in accordance with the guidelines outlined in the COVID FAQ Medicaid Closures V9 document, specifically, Appendix item #4, the Notice also includes a correct comment that Petitioner's medical coverage has been closed due to being invalidly enrolled, as the assets exceed the asset limit for MA eligibility. (Exhibit A, pp. 24-27)

13. On or around November 2, 2022, Petitioner requested a hearing disputing the Department's actions, specifically indicating that she and her husband are disabled and aged. (Exhibit A, p.3)

### **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, the Department contended that Petitioner and her husband were ineligible for MA and MSP benefits because the value of their countable assets exceeded the limits for each program's eligibility.

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. 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.

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 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. The asset limit for Petitioner's MA asset group size of two (Petitioner and her husband) is \$3,000. BEM 400, pp. 7-9; BEM 211 (July 2019), pp. 1-8. For MSP cases, effective January 1, 2022, the asset limit for Petitioner's asset group size of two is \$12,600. Effective January 1, 2021, the MSP asset limit for Petitioner's two person group is

\$11,960, and effective January 1, 2020, the MSP asset limit for a two person group was \$11,800. BEM 400, pp. 7-8; BEM 211, pp. 1-9.

It was established that based on their ages and receipt of Medicare benefits, Petitioner and her husband were potentially eligible for MA and MSP benefits under an SSI-related category that is subject to an asset test. Although the Department did not present an MA Asset Budget for review showing the exact breakdown of assets considered, the Department testified that in making its determination that Petitioner and her husband had excess assets, the Department considered the value of their cash assets, specifically, the reported balances in the Bank of American checking account, which totaled greater than the income limits identified above. The Department representative testified that upon receiving Petitioner's [REDACTED] 2022, application requesting MA and MSP benefits for her husband, the Department became aware that a previous request for assistance was made in [REDACTED] 2021 that had not been processed. Thus, the Department began processing MA and MSP eligibility for Petitioner's husband as of September 2021.

In processing these requests, the Department obtained information from an asset detection report indicating that as of October 2020, the effective date in which Petitioner herself was approved for MA and MSP benefits, Petitioner had cash assets in a bank account the amount of \$57,812.93. (Exhibit B, pp. 1-2). Therefore, the Department determined that Petitioner was invalidly enrolled in the MA program and MSP effective October 1, 2020, and initiated the closure of her cases effective November 1, 2022. The Department concluded that based on the bank account asset information provided by Petitioner in both the [REDACTED] 2021, and [REDACTED] 2022, applications, Petitioner's husband was also ineligible for MA and MSP benefits as of the application dates, and further, that Petitioner was ineligible for continued MA and MSP coverage.

At the hearing, Petitioner did not dispute that the value of the cash assets in her bank accounts was greater than the asset limits identified above for MA and MSP eligibility. Petitioner asserted that she provided the Department with all bank statements and complied with all requests for information. Petitioner argued that she did not try to hide her assets and should not be penalized for a mistake that was not hers. Petitioner further confirmed that as of the hearing date, the value of cash assets in her bank account have been spent down to between \$25,000 and \$26,000.

Notwithstanding the arguments offered by Petitioner during the hearing, based on the evidence presented, including the disclosures on the applications, the asset detection report presented for review, and Petitioner's testimony, the evidence was sufficient to show that the cash assets in the bank accounts were available to Petitioner and her husband. Because it was undisputed that the value of the cash assets in Petitioner's bank accounts exceeds the MA and MSP asset limits, Petitioner and her husband are ineligible for MA and MSP.

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 closed Petitioner's MA and MSP cases and denied MA and MSP coverage for Petitioner's husband due to excess assets.

**DECISION AND ORDER**

Accordingly, the Department's decision is **AFFIRMED**.

ZB/ml

  
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**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**  
Vivian Worden  
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**Interested Parties**

BSC4  
M Schaefer  
EQAD  
MOAHR

**Via First Class Mail :**

**Petitioner**

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