



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: March 1, 2023
MOAHR Docket No.: 22-006180
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 February 2, 2023, from Detroit, Michigan. Petitioner was not present for the hearing. Petitioner was represented by [REDACTED], Authorized Hearing Representative (AHR). The Department of Health and Human Services (Department) was represented by Karen Smalls, Assistance Payments Supervisor and Rechela Hall, Eligibility Specialist.

ISSUE

Did the Department properly deny Petitioner's application for Medical Assistance (MA) and 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 or around [REDACTED] 2022, Petitioner submitted an application requesting MA and MSP benefits.
2. Petitioner's AHR confirmed that at the time of the application, Petitioner was not enrolled in or receiving Medicare Part A or Medicare Part B.
3. On or around November 14, 2022, the Department sent Petitioner a Health Care Coverage Supplemental Questionnaire (Questionnaire) that she was instructed to complete and return by November 28, 2022. Petitioner completed the Questionnaire and reported that she had no cash assets. (Exhibit A, pp. 23-26)

4. On or around December 6, 2022, the Department sent Petitioner a Health Care Coverage Determination Notice, advising her that effective November 1, 2022, she is not eligible for MSP benefits because she does not meet the basic criteria for eligibility. (Exhibit A, pp.5-7)
5. On or around December 10, 2022, an asset detection report was completed by the Department and identified bank accounts associated with Petitioner's name.
6. Petitioner's AHR confirmed that at the time of the application, Petitioner was the joint owner of a bank account with the AHR that had a balance of greater than \$2,000.
7. On or around December 14, 2022, the Department sent Petitioner a Health Care Coverage Determination Notice, approving her for MA coverage for the month of November 2022, but advising her that effective December 1, 2022, ongoing, she was ineligible for MA benefits because the value of her countable assets exceeded the limit.
8. On or around December 21, 2022, a hearing was requested on Petitioner's behalf disputing the Department's determination that she was ineligible for MA and MSP benefits. (Exhibit A, pp. 3-4)
9. On an unverified date, Petitioner's AHR removed Petitioner from the joint account and on or around January 5, 2023, Petitioner's AHR submitted bank statements to the Department in Petitioner's name only, showing a balance of less than \$2,000.

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.

In this case, the Department determined that Petitioner was not eligible for MSP benefits because she does not meet the basic criteria for eligibility. (Exhibit A, pp. 5-7). Petitioner's AHR confirmed that at the time of the application, Petitioner was not enrolled in or receiving Medicare Part A or Medicare Part B. There was no evidence presented that Petitioner was entitled to receive or enrolled in the Medicare Part A or Medicare Part B programs as required by BEM 165. Therefore, the Department properly denied Petitioner's MSP application.

The Department also contended that Petitioner was ineligible for MA because the value of her countable assets exceeded the limit for MA 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. 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. The asset limit for Petitioner's MA asset group size of one is \$2,000. BEM 400, pp. 7-9; BEM 211 (January 2016), pp. 1-8. An asset must be available to be countable. Available means that someone in the asset group has the legal right to use or dispose of the asset. For jointly owned assets that have more than one owner, an asset is unavailable if all the following are true, and an owner **cannot** sell or spend his share of an asset: without another owner's consent, the other owner is not in the asset group, and the other owner refuses consent. BEM 400, p. 12.

It was established that based on her age, Petitioner is potentially eligible for MA 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 had excess assets, the Department relied on the information obtained from the asset detection report and the bank statements submitted for review, specifically considering the value of the cash assets in the joint bank account held by Petitioner and her daughter/AHR, which totaled greater than \$2,000.

Petitioner's AHR did not dispute that at the time of the application, she was the joint owner of the bank account with Petitioner that had a balance of greater than \$2,000. Although Petitioner was later removed from the joint account, Petitioner's AHR confirmed that she did not submit verification of the updated bank statements reflecting Petitioner's sole ownership of a bank account with a value less than \$2,000 until on or around January 5, 2023. Therefore, because the value of Petitioner's cash assets was greater than the \$2,000 limit at the time of the application, the Department properly denied Petitioner's request for MA benefits effective December 1, 2022, ongoing.

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 determined that Petitioner was ineligible for MSP and MA benefits. Petitioner and her AHR are advised that petitioner is entitled to submit a new application for MA and MSP benefits and Petitioner's eligibility will be determined from the application date.

DECISION AND ORDER

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

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
Linda Gooden
Oakland County Southfield District III
25620 W. 8 Mile Rd
Southfield, MI 48033
**MDHHS-Oakland-6303-
Hearings@michigan.gov**

Interested Parties
BSC4
M Schaefer
EQAD
MOAHR

Via First Class Mail :

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

Petitioner

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