



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 22, 2023
MOAHR Docket No.: 23-000793
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Linda Jordan

HEARING DECISION

Following Petitioner's Request for 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 hearing was held on March 16, 2023 via teleconference. Petitioner appeared and was represented by Authorized Hearing Representative (AHR), ██████████. ██████████ appeared as a witness for Petitioner. Lekeitia Cokley, Assistance Payments Supervisor, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department).

ISSUES

1. Did MDHHS properly determine Petitioner's eligibility for Food Assistance Program (FAP) benefits?
2. Did MDHHS properly process Petitioner's application for Medicaid (MA) and the Medicare Savings Program (MSP)?

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 January 9, 2023, Petitioner applied for FAP and health care coverage (MA) (Exhibit A, p. 9). Petitioner indicated that he wanted assistance paying Medicare Premiums (MSP) (Exhibit A, p. 10).
2. On January 24, 2023, MDHHS sent Petitioner a Notice of Case Action, indicating that his application for FAP was denied January 9, 2023 ongoing (Exhibit A, pp. 5-6). The notice indicated that Petitioner was ineligible due to his "institutional status" (Exhibit A, p. 6).

3. On or about January 24, 2023, MDHHS denied Petitioner's application for MA because he was over the asset limit for the program.
4. On February 9, 2023, Petitioner filed a Request for Hearing regarding MDHHS' FAP and MA determinations (Exhibit A, pp. 3-4).
5. On February 14, 2023, MDHHS sent Petitioner a Verification Checklist (VCL) requesting proof of Petitioner's checking account and pension or retirement account (Exhibit A, p. 16). The VCL indicated that proofs were due by February 24, 2023.
6. On February 15, 2023, MDHHS sent Petitioner a Notice of Case Action indicating that Petitioner was approved for FAP, effective January 9, 2023 through December 31, 2023 (Exhibit A, p. 19).

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).

Food Assistance Program (FAP)

Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 792.10101 to R 792.10137 and R 792.11001 to R 792.11020. Rule 792.11002(1) provides:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance is denied or is not acted upon with reasonable promptness, has received notice of a suspension or reduction in benefits, or exclusion from a service program, or has experienced a failure of the agency to take into account the recipient's choice of service.

In this case, Petitioner filed a Request for Hearing regarding MDHHS' decision to deny his application for FAP. Prior to the hearing, MDHHS redetermined Petitioner's eligibility for FAP benefits and approved him for FAP benefits from January 9, 2023 ongoing. Petitioner's AHR testified that the dispute regarding the FAP application had been resolved and requested to withdrawal the Request for Hearing on that issue. The Request for Hearing regarding FAP was withdrawn on the record. MDHHS had no objection. According to the withdrawal of the Request for Hearing regarding FAP, this matter is **DISMISSED**.

Medicaid (MA) and Medicare Savings Program (MSP)

The Medicaid (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. MDHHS the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MA is also known as Medical Assistance. BEM 105 (January 2021), p. 1.

Medicare is a federal program administered by the Social Security Administration (SSA). BAM 810 (January 2020), p. 1. MSP is a state program administered by MDHHS in which the state pays an eligible client's Medicare premiums, coinsurances, and deductibles. BEM 165 (October 2022), pp 1-2; BAM 810, p. 1. All eligibility factors for the program must be met in the calendar month being tested. BEM 165, p. 2. There are three MSP categories: (1) QMB (Qualified Medicare Beneficiary), which pays for a client's Medicare premiums (both Part A, if any, and Part B), Medicare coinsurances and Medicare deductibles; (2) Specified Low-Income Medicare Beneficiaries (SLMB), which pays for a client's Medicare Part B premiums; and (3) Additional Low Income Medicare Beneficiaries (ALMB), which pays for a client's Medicare Part B premiums when funding is available. BEM 165, pp. 1-2.

In this case, MDHHS testified that Petitioner's application for MA was denied because he was over the asset limit for the program. No evidence was submitted regarding MDHHS' MSP determination.

The Medicaid program includes several sub-programs or categories. BEM 105, p. 1. To receive MA under a Supplemental Security Income (SSI)-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. *Id.* Because Petitioner was a Medicare recipient and there was no evidence that he was the parent or caretaker of a minor child, he was only eligible for MA under an SSI-related category.

To evaluate Petitioner's eligibility for MA, MDHHS must determine Petitioner's MA fiscal group size, net income and assets. The record shows that Petitioner was not married when he submitted the application (Exhibit A, p. 10). Unmarried individuals have a fiscal group size of one for SSI-related MA. Asset eligibility is required for SSI-related MA categories. BEM 400 (January 2021), p. 6. Asset eligibility exists when the group's countable assets are less than or equal to the asset limit at least one day during the month being tested. *Id.*, p. 7. For a MA fiscal group of one, the asset limit is \$2000.00. *Id.*, p. 9.

At the hearing, MDHHS testified that Petitioner was ineligible for MA because his assets exceeded the limit for the program. MDHHS did not submit a health care determination notice into evidence. MDHHS testified that Petitioner's checking account contained over \$2,000.00, which was over the asset limit for a MA fiscal group of one. However, MDHHS did not provide any documentation or other evidence to show when Petitioner's checking account exceeded \$2,000.00 or if the checking account dipped below \$2,000.00 on any day during the determination month. See BEM 400, p. 7. If Petitioner's countable assets were below the asset limit for one day during the month at issue, then he would satisfy the asset test for SSI-related MA. Because this information was lacking, MDHHS failed to satisfy its burden of showing that it properly denied Petitioner's MA application.

For MSP, clients must be entitled to Medicare Part A to be eligible for the program. BEM 165, pp. 5-6. When an adult is applying for MSP, the fiscal and asset group is the adult applicant and their spouse. BEM 211 (July 2019), p. 8. Additionally, clients must be income-eligible and countable assets cannot exceed the asset limit in BEM 400. *Id.* Effective January 1, 2023, the asset limit for MSP is \$9,090.00 for an asset group of one. BEM 400 (January 2023), p. 8.

The record shows that Petitioner indicated on his MA application that he would like help paying Medicare premiums (Exhibit A, p. 10). At the hearing, no evidence was submitted to show that MDHHS determined his eligibility for MSP. Accordingly, MDHHS has failed to satisfy its burden of showing that it properly processed Petitioner's request.

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 MDHHS failed to satisfy its burden of showing that it acted in accordance with Department policy when it processed Petitioner's application for MA and MSP.

DECISION AND ORDER

The matter involving Petitioner's FAP benefits is, hereby, **DISMISSED** pursuant to the withdrawal of the Request for Hearing at the hearing.

MDHHS' decision regarding Petitioner's MA and MSP benefits is **REVERSED**.

MDHHS 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. Reregister Petitioner's January 9, 2023 application for MA and MSP;
2. Redetermine Petitioner's eligibility for MA from January 9, 2023 ongoing;
3. Provide Petitioner with MA coverage for each eligible month;
4. Unless Petitioner was already approved for MSP, redetermine Petitioner's eligibility for MSP from January 9, 2023 ongoing;
5. Provide Petitioner with MSP coverage for each eligible month; and
6. Notify Petitioner and AHR of its decision in writing.



Linda Jordan
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
M. Schaefer
EQADHearing
BSC4

Via-First Class Mail :

Petitioner
[REDACTED]
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