



STATE OF MICHIGAN

GRETCHEN WHITMER  
GOVERNOR

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES  
SUZANNE SONNEBORN  
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA  
ACTING DIRECTOR



Date Mailed: September 27, 2023  
MOAHR Docket No.: 23-004211  
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 September 6, 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 Raven Douthard, Hearing Facilitator.

### **ISSUE**

Did the Department properly process 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] 2023, Petitioner submitted an application for MA and MSP benefits, with a request for retroactive coverage for the months of January 2023, February 2023, and March 2023. (Exhibit A, pp. 7-12)
2. On or around May 30, 2023, the Department sent Petitioner a Health Care Coverage Determination Notice, denying his MA and MSP application and advising him that from April 1, 2023, ongoing he was ineligible for MA and MSP benefits because among other reasons, he failed to return a supplemental questionnaire requesting additional information. (Exhibit A, pp. 17-19)

3. On or around July 21, 2023, a hearing was requested on Petitioner's behalf, disputing the denial of the [REDACTED] 2023, MA and MSP application. The hearing request indicates that at issue is the denial of MSP benefits.
4. After receiving the hearing request, the Department reviewed Petitioner's case and determined that the application was denied in error, as the health care coverage supplemental questionnaire had been timely submitted.
5. On or around July 28, 2023, the Department sent Petitioner a Health Care Coverage Determination Notice, advising him that for the retroactive period of January 1, 2023, to March 31, 2023, he was approved for full coverage MA benefits, and for April 1, 2023, ongoing, he was approved for MA with a monthly deductible of \$769, as well as MSP benefits under the SLMB category. (Exhibit A, pp. 20-23)

### **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 2022), 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 is the major determiner of category. The monthly income limits for Petitioner's fiscal group size are identified in RFT 242 (April 2023). For QMB eligibility, net income cannot exceed 100% of the poverty level, plus the \$20 disregard for RSDI income. For SLMB eligibility, net income is over 100% but not over 120% of the poverty level, plus the \$20 disregard for RSDI income and for ALMB eligibility, net income is over 120% but not over 135% of the poverty level, plus the \$20 disregard for RSDI income. RFT 242, p.1; BEM 165, pp. 1-2, 8-10. The Department is to determine countable income

according to the SSI-related MA policies in BEM 500, 501, 502, 503, 504, and 530, except as otherwise explained in BEM 165. RFT 242, pp1-2; BEM 165, pp. 8-10. The Department will also apply the deductions in BEM 540 (for children) and BEM 541 (for adults) to countable income to determine net income. BEM 165, pp. 8-10.

Once determined eligible, QMB coverage begins the calendar month after the processing month, which is the month in which an eligibility determination is made. QMB is not available for past months or the processing month. SLMB coverage is available for retro Medical Assistance (MA) months and later months. However, Department policy notes that SLMB is only available for months in which income exceeds the QMB income limit and a person cannot choose SLMB in place of QMB in order for coverage to start sooner (for example, to get retroactive MA). ALMB coverage is available for retro MA months and later months; however, not for time in a previous calendar year. BEM 165, pp. 3-5.

In this case, the hearing was requested to dispute the denial of Petitioner's MA and MSP application. At the hearing, the Department testified that after receiving Petitioner's hearing request, it reviewed Petitioner's case and determined that the application had been denied in error. The Department testified that the action was corrected and the July 28, 2023, Health Care Coverage Determination Notice was issued, approving Petitioner's MA and MSP coverage. However, later in the hearing, the Department representative testified that upon further review, there appeared to be additional errors with respect to the amount of income that had been considered and relied upon in the reprocessing of Petitioner's MA and MSP benefits. Additionally, the Department conceded that Petitioner's eligibility for retroactive MSP benefits had not been considered. The Department asserted that the MA and MSP application should be reprocessed and Petitioner's MA/MSP eligibility determined for the retroactive period, 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 did not act in accordance with Department policy when it processed Petitioner's [REDACTED] 2023, MA and 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] 2023, MA and MSP application to determine his eligibility for MA and MSP under the most beneficial category for the retroactive period of January 1, 2023, ongoing;
2. If eligible, provide MA and MSP coverage to Petitioner for any MA and MSP benefits he was entitled to receive but did not from the retroactive period of January 1, 2023, ongoing, and
3. Notify Petitioner and his AHR in writing of its decision.

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**  
Jeanenne Broadnax  
Wayne-Taylor-DHHS  
25637 Ecorse Rd.  
Taylor, MI 48180  
**MDHHS-Wayne-18-Hearings@michigan.gov**

**Interested Parties**  
BSC3  
M Schaefer  
EQAD  
MOAHR

**Via First Class Mail:**

**Authorized Hearing Rep.**

[REDACTED]  
[REDACTED]  
[REDACTED] GA [REDACTED]

**Petitioner**

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