



GRETCHEN WHITMER
GOVERNOR

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

MARLON I. BROWN, DPA
ACTING DIRECTOR

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Date Mailed: October 27, 2023
MOAHR Docket No.: 23-005463
Agency No.: ██████████
Petitioner: █████ █████

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 October 26, 2023, via conference line. Petitioner was represented by her Authorized Hearing Representative (AHR), █████ █████ The Department of Health and Human Services (Department) was represented by Edwina Dunson, Assistance Payments Supervisor.

ISSUES

Did the Department properly close Petitioner's Medical Assistance (MA) benefit case?

Did the Department properly close Petitioner's Medicare Savings Program (MSP) benefit case?

FINDINGS OF FACT

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

1. Petitioner was an ongoing MA recipient, under the Ad-care program, and an MSP recipient.
2. On June █████ 2023, Petitioner completed a redetermination related to her MA and MSP benefit cases (Exhibit A, pp. 9-14).
3. On August █████ 2023, the Department sent Petitioner a Health Care Coverage Determination Notice (HCCDN) informing her that her MA and MSP benefit cases were closing effective September 1, 2023 (Exhibit A, pp. 15-18).

4. On September █ 2023, the Department sent Petitioner a HCCDN informing her that she was eligible for MA benefits under the Plan First program and that her MSP benefit case was closing effective September 1, 2023, ongoing (Exhibit A, pp. 19-22).
5. On September █ 2023, the Department sent Petitioner a HCCDN informing Petitioner that her MA and MSP benefit cases were closing effective September 1, ongoing.
6. Petitioner's AHR submitted a request for hearing disputing the Department's actions.

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, Petitioner's MA and MSP benefit cases were initially closed, as a result of Petitioner's failure to return the redetermination packet. However, the Department testified that Petitioner's redetermination packet was returned timely, and it was not processed promptly as a result of agency error. The Department stated that Petitioner's MA and MSP benefit cases were reinstated, and her eligibility was redetermined. The Department testified that Petitioner's MSP benefit case was closed due to excess assets. The Department reported that Petitioner was also determined ineligible for SSI-related MA, due to excess assets. The Department testified that Petitioner was initially determined as eligible for Plan First MA, but that it was later determined that she had excess income.

For SSI-related MA, countable assets cannot exceed the limit under BEM 400. BEM 165, p. 8. Countable assets are determined based on MA policies in BEM 400, 401 and 402. BEM 165, p. 8. For SSI-Related Medicaid the department will utilize an asset verification program to electronically detect unreported assets belonging to applicants and beneficiaries. BEM 400 (January 2018), p. 1. Asset detection may include the following sources at financial institutions: checking, savings, and investment accounts, IRAs, treasury notes, certificates of deposit (CDs), annuities and any other asset that may be held or managed by a financial institution. BEM 400, p. 1. All types of assets are

considered for SSI-related MA categories. BEM 400, p. 3. The asset limit for a group of one for SSI-related MA is \$2,000. BEM 400, p. 8.

As Petitioner was not married, per policy, her fiscal group size for SSI-related MA is one. BEM 211 (January 2016), p. 8. Thus, Petitioner's assets cannot exceed \$2,000. The Department testified that Petitioner had \$ [REDACTED] in her savings account. Petitioner's AHR did not dispute the Department's testimony. Therefore, Petitioner's asset total well exceeds the limit for SSI-related MA. Thus, the Department properly determined Petitioner was not eligible for benefits under the SSI-related MA programs, including Ad-care and Group 2 SSI-related MA (G2S).

For MSP benefits, countable assets cannot exceed the limit under BEM 400. BEM 165 (January 2018), p. 8. Countable assets are determined based on MA policies in BEM 400, 401 and 402. BEM 165, p. 8. MSPs are SSI-related MA categories. BEM 165, p. 1. For SSI-Related Medicaid the department will utilize an asset verification program to electronically detect unreported assets belonging to applicants and beneficiaries. BEM 400 (January 2018), p. 1. Asset detection may include the following sources at financial institutions: checking, savings, and investment accounts, IRAs, treasury notes, certificates of deposit (CDs), annuities and any other asset that may be held or managed by a financial institution. BEM 400, p. 1. All types of assets are considered for SSI-related MA categories. BEM 400, p. 3. Effective January 1, 2023, the asset limit for a group of one for MSP benefits is \$9,090. BEM 400, p. 8.

As stated above, Petitioner had assets in a savings account totaling \$ [REDACTED]. Therefore, Petitioner exceeded the asset limit for her group size under the MSP program. Thus, the Department acted in accordance with policy when it closed Petitioner's MSP benefit case.

The Department also concluded that Petitioner was not eligible for Plan First MA because her income exceeded the applicable income limit for her group size. Plan First is MAGI-related MA program. An individual is eligible for Plan First if her household's net income does not exceed 195% of the Federal Poverty Level (FPL) applicable to the individual's group size. BEM 124, p. 2. Additionally, for MAGI-related MA programs, the Department allows a 5 percent disregard in the amount equal to five percent of the FPL level for the applicable family size. BEM 500 (April 2022), p. 5. It is not a flat 5 percent disregard from the income. BEM 500, p. 5. The 5 percent disregard is applied to the highest income threshold. BEM 500, p. 5. The 5 percent disregard shall be applied only if required to make someone eligible for MA benefits. BEM 500, p. 5. An individual's group size for MAGI-related purposes requires consideration of the client's tax filing status. In this case, Petitioner has a household size of one. BEM 211 (July 2019), pp. 1-2. 200% of the annual FPL in 2023 for a household with one member is \$29,160. See <https://aspe.hhs.gov/poverty-guidelines>. The monthly income limit for a group size of one is \$2,430. Therefore, to be income eligible for Plan First, Petitioner's income cannot exceed \$29,160 annually or \$2,430 monthly.

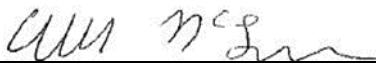
In order to determine income in accordance with MAGI, a client's adjusted gross income (AGI) is added to any tax-exempt foreign income, Social Security benefits, and tax-exempt interest. AGI is found on IRS tax form 1040 at line 37, form 1040 EZ at line 4, and form 1040A at line 21. Alternatively, it is calculated by taking the "federal taxable wages" for each income earner in the household as shown on the paystub or, if not shown on the paystub, by using gross income before taxes reduced by any money the employer takes out for health coverage, childcare, or retirement savings. See <https://www.healthcare.gov/income-and-household-information/how-to-report/> and BEM 500 (April 2022), p. 4. For MAGI MA benefits, if an individual receives RSDI benefits and is a tax filer or non-dependent adult, all RSDI income is countable. BEM 503 (January 2023), p. 29.

The Department testified that Petitioner had Retirement, Survivors and Disability Insurance (RSDI) benefit income in the monthly amount of \$[REDACTED]. The Department also testified that Petitioner had a pension income in the amount of \$[REDACTED]. Although Petitioner's AHR testified that Petitioner's gross RSDI income is reduced by her monthly Medicare Part B premium, per policy, the gross RSDI benefit is countable. Additionally, Petitioner's AHR testified that Petitioner's pension is not reduced by any pre-tax deductions. Therefore, Petitioner's total countable monthly household income is \$[REDACTED]. Thus, Petitioner exceeds the income limit under the Plan First MA program. As it follows, the Department acted in accordance with policy when it closed Petitioner's MA benefit case.

DECISION AND ORDER

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

EM/dm



Ellen McLemore
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
Nathan Norman
Wayne-Adult Medical-DHHS
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SchaferM

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MOAHR

Via-First Class Mail :

Petitioner
[REDACTED]
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Authorized Hearing Rep.
[REDACTED]
[REDACTED]
[REDACTED]