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GOVERNOR

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

[REDACTED]
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[REDACTED] MI [REDACTED]

Date Mailed: November 20, 2023
MOAHR Docket No.: 23-005526
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 November 15, 2023, via conference line. Petitioner was present and was unrepresented. The Department of Health and Human Services (Department) was represented by Danielle Moton, Assistance Payments Worker.

ISSUE

Did the Department properly determine Petitioner's Medical Assistance (MA) benefit eligibility?

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 Healthy Michigan Plan (HMP) program.
2. On August 18, 2023, Petitioner completed a redetermination related to his MA benefit case.
3. On September 8, 2023, the Department sent Petitioner a Health Care Coverage Determination Notice informing him that he was approved for MA benefits under

the limited coverage Plan First MA program effective September 1, 2023, ongoing (Exhibit A, pp. 11-13).

4. Petitioner 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 was an ongoing MA recipient under the HMP program. In August 2023, Petitioner completed a redetermination related to his MA benefit case. The Department determined that Petitioner was only eligible for benefits under the limited coverage Plan First MA program.

Petitioner confirmed at the hearing that he is a Medicare recipient. The HMP program provides health care coverage for individuals who are: (i) 19-64 years of age; (ii) do not qualify for or are not enrolled in Medicare; (iii) do not qualify for or are not enrolled in other Medicaid programs; (iv) are not pregnant at the time of application; (v) meet Michigan residency requirements; (vi) meet Medicaid citizenship requirements; and (vii) have income at or below 133% of the Federal Poverty Level. BEM 137 (January 2018), p. 1. As Petitioner is a Medicare recipient, the Department properly concluded he is not eligible for HMP benefits.

As a disabled and/or aged individual, Petitioner is potentially eligible to receive MA benefits through the SSI-related MA programs. 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, his fiscal group size for SSI-related MA is one. BEM 211 (January 2016), p. 8. Thus, Petitioner's assets cannot exceed \$2,000.

At the hearing, Petitioner conceded that he had in excess of \$[REDACTED] in a checking account. Petitioner argued that he had no income in the previous two years and intended to utilize the funds to repay his family and friends that helped him during his period of unemployment.

An asset must be available to be countable. BEM 400, p. 10. Available means that someone in the asset group has the legal right to use or dispose of the asset BEM 400, p. 10. Although Petitioner's intent may be to use the funds to provide to family members, he has legal right to use the funds, and therefore, the assets are countable. As Petitioner's assets exceed the limit for SSI-related MA, the Department properly determined that Petitioner is not eligible for SSI-related MA benefits.

The Department testified that Petitioner was also not eligible for the Medicare Savings Program, as his income exceeded the limit. 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 (January 2018), 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 eligibility for MSP benefits exists when net income is within the limits in RFT 242 or 247. The Department is to determine countable income according to the SSI-related MA policies in BEM 500 and 530, except as otherwise explained in BEM 165. RFT 242, pp1-2; BEM 165, pp. 7-8.

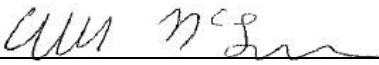
The Department testified that based on Petitioner's household income, he was not eligible for MSP benefits under any of the three categories. Effective April 1, 2023, for QMB, the monthly income limit for a group size of one is \$1,235, which is 100 percent of the Federal Poverty Level, plus the \$20 disregard. RFT 242, p. 1. For SLMB the monthly income limit for Petitioner's group size of one is \$1,478, which is 120 percent of the Federal Poverty Level, plus the \$20 disregard. RFT 242, p. 2. For ALMB, the monthly income limit for Petitioner's group size of one is \$1,660, which is 135 percent of the Federal Poverty Level, plus the \$20 disregard. RFT 242, pp. 1-3. RFT 242, p. 3.

At the hearing, the Department testified that Petitioner receives gross monthly income in the amount of \$[REDACTED] in Social Security benefits. At the hearing, Petitioner testified that he does not receive \$[REDACTED], as his income is reduced by his Medicare Part B premium. However, eligibility is based on gross income, not net income. BEM 503, p. 29. Petitioner exceeds the income limit for all MSP categories. Thus, the Department acted in accordance with policy when it did not approve Petitioner for MSP benefits.

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 determined Petitioner's MA eligibility. Accordingly, the Department's decision is **AFFIRMED**.

EM/tm



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

