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GOVERNOR

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

MARLON I. BROWN, DPA
ACTING DIRECTOR

[REDACTED], MI [REDACTED]

Date Mailed: November 29, 2023
MOAHR Docket No.: 23-006073
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Linda Jordan

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 hearing was held on November 1, 2023, via teleconference. [REDACTED] [REDACTED] Petitioner's spouse and household member (Spouse), appeared on behalf of Petitioner. Jacob Frankmann, Assistance Payments Supervisor, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department).

ISSUE

Did MDHHS properly terminate Petitioner and Spouse's Medicare Savings Program (MSP) coverage?

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 and Spouse were ongoing recipients of Medicaid (MA) and MSP benefits.
2. On August 23, 2023, Petitioner submitted a Redetermination (Exhibit A, p. 34).
3. On September 2, 2023, MDHHS issued a Health Care Coverage Determination Notice indicating that Petitioner and Spouse were approved for Plan First Medicaid (MA) coverage, effective July 1, 2023 ongoing, and were not eligible for MSP benefits, effective October 1, 2021 (Exhibit A, pp. 48-52).

4. On September 12, 2023, Petitioner requested a hearing regarding the denial of MSP benefits for the household (Exhibit A, pp. 3-5).

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).

Medicaid 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 administers 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.

MSP is a state program administered by MDHHS in which the state pays an eligible client's Medicare premiums, coinsurances, and deductibles, with coverage depending on the MSP program that the client is income-eligible for. BEM 165 (October 2022), pp 1-2; BAM 810 (January 2020), 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 determined that Petitioner and Spouse were over the income limit for MSP benefits. Although the notice indicated that the denial was due to failure to verify certain information, MDHHS testified at the hearing that they were denied due to exceeding the income limit for the program. This decision will address whether MDHHS properly determined that Petitioner and Spouse exceeded the income limit for the program. Additionally, MDHHS made a determination regarding Petitioner and Spouse's MA benefits on September 2, 2023. However, Petitioner's Request for Hearing was limited in scope to the issue of MSP benefits only. Spouse was advised at the hearing that she retained her full rights to challenge MDHHS' decision regarding the household's MA coverage and the time limits for doing so.

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. In this case, Petitioner had a fiscal and asset group-size of two, which included Petitioner and Spouse. Income is the major determiner of MSP eligibility and category. BEM 165, p. 1. Effective April 1, 2023, a

fiscal group-size of two is income eligible for QMB if their monthly net income is no more than 100% of the Federal Poverty Level (FPL), or \$1,663.50; SLMB if their monthly net monthly income is between 100% and 120% of FPL, or \$1,663.51 and \$1,992.00; and ALMB if their monthly net income is between 120% and 135% of FPL, or \$1,992.01 and \$2,238.50. RFT 242 (April 2023), pp. 1-2; BEM 165, pp. 2, 8. Income eligibility for MSP is based on the FPL and a \$20.00 disregard for Retirement, Survivors and Disability Insurance (RSDI) income. RFT 242, p.1.

MDHHS budgeted \$ [REDACTED] for Petitioner and Wife's unearned income, based on the receipt RSDI income (Exhibit A, p. 25). Petitioner did not dispute this amount. The \$20 unearned income general exclusion was budgeted, which brought the net income to \$ [REDACTED] (Exhibit A, p. 45). No other evidence of MA income deductions for SSI-related adults was introduced. See BEM 541 (January 2023). The record shows that Petitioner's household net income of \$ [REDACTED] was less than the income limit for ALMB, which was \$2,238.50 as of April 1, 2023. It is unclear why MDHHS used the income limit of \$2,219.00 for ALMB because that was not accurate as of October 1, 2023 when the determination was made. According to MDHHS' calculation, Petitioner and Spouse were eligible for ALMB, effective October 1, 2023.

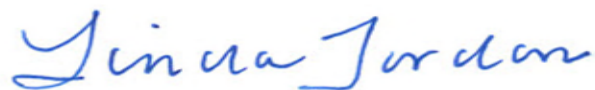
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that MDHHS did not act in accordance with Department policy when it determined that Petitioner and Spouse were ineligible for MSP benefits.

DECISION AND ORDER

Accordingly, MDHHS' decision 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. Provide Petitioner and Spouse with ALMB coverage, effective October 1, 2023 ongoing; and
2. Notify Petitioner of its decision in writing.



LJ/nr

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
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Hearings@michigan.gov**

Interested Parties
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BSC4
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Via-First Class Mail :

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