



GRETCHEN WHITMER  
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]  
[REDACTED], MI [REDACTED]

Date Mailed: January 24, 2024  
MOAHR Docket No.: 23-007907  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Christian Gardocki**

### **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 via telephone conference on January 18, 2024. Petitioner participated and was unrepresented. [REDACTED] [REDACTED] Petitioner's wife, testified on behalf of Petitioner. The Michigan Department of Health and Human Services (MDHHS) was represented by Danielle Moton, specialist.

### **ISSUE**

The issue is whether MDHHS properly terminated Petitioner's Medicare Savings Program (MSP) 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. As of October 2023, Petitioner was an ongoing recipient of MSP benefits.
2. As of October 2023, Petitioner and his spouse received \$660 and \$1,594, respectively, in gross monthly Retirement, Survivors, Disability Income (RSDI).
3. As of October 2023, Petitioner had no guardianship or conservator expenses.
4. On October 28, 2023, Petitioner requested a hearing to dispute the termination of MSP benefits.

5. On November 8, 2023, MDHHS terminated Petitioner's MSP eligibility beginning October 2023 due to excess income.

### **CONCLUSIONS OF LAW**

The 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 administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MA policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute MSP eligibility.<sup>1</sup> Exhibit A, pp. 3-4. A Health Care Coverage Determination Notice dated October 28, 2023, stated that Petitioner's MSP eligibility ended October 2023 due to excess income. Exhibit A, pp. 7-12.

MSP is an SSI-related Medicaid category. BEM 165 (January 2018) p. 1. One of three different subprograms are available under MSP. Qualified Medicare Beneficiaries (QMB) coverage pays for a client's Medicare premiums, coinsurances, and deductibles. BEM 165 (January 2018), p. 2. Specified Low Income Beneficiaries (SLMB) coverage pays for a client's Medicare Part B premium. *Id.* Additional Low-Income Beneficiaries (ALMB) coverage pays for a client's Medicare Part B premium if MDHHS funding is available. *Id.* The client's income determines the MSP subprogram issued (see RFT 242).

For MSP eligibility, MDHHS is to determine countable income according to the SSI-related MA policies in BEM 165, 500, 501, 502, 503, 504 and 530. BEM 165 (October 2016) p. 8. MDHHS is to apply the deductions in BEM 540 (for children) and 541 (for adults) to determine a client's net income for MSP. *Id.*

It was not disputed that Petitioner was married. As a married individual, for purposes of MSP, Petitioner's group size is two.<sup>2</sup>

MDHHS presented documents from the Social Security Administration verifying a total RSDI of \$2,254 (dropping cents) for Petitioner and his spouse. Exhibit A, pp. 15-20. Generally, MDHHS counts the gross amount of RSDI in determining MA eligibility.<sup>3</sup> BEM

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<sup>1</sup>Petitioner's hearing request referenced a closure due to Petitioner requesting closure. MDHHS acknowledged that a notice dated September 5, 2023, wrongfully stated that MSP closure was due to Petitioner's request.

<sup>2</sup> See BEM 211 for determining the group size for MA benefits.

<sup>3</sup> Exceptions to counting gross RSDI include the following: certain former SSI recipients (e.g., disabled-adult children, 503 individuals, and early widowers), retroactive RSDI benefits, Medicare premium refunds, fee deductions made by qualified organizations acting as payee, and "returned benefits" (see BAM 500). No exceptions were applicable to the present case.

503 (April 2019), p. 28. For MSP, Petitioner's benefit group's monthly countable income is \$2,254.

For MSP, MDHHS allows a standard \$20 disregard for unearned income, disregards for employment income, guardianship/conservatorship expense credits, and a disregard for cost-of-living adjustments (January through March only). The only applicable disregard and/or credit is the standard \$20 disregard for unearned income. Applying the disregard to Petitioner's group's RSDI results in a net income is \$2,234.

Income eligibility exists for MSP when net income is within the limits in RFT 242 or 247. *Id.*, p. 8. The highest income limit for any MSP category for a group size of two persons is \$2,219 (rounding up to nearest dollar).<sup>4</sup> RFT 242 (April 2023) p. 1. Petitioner's group's countable net income exceeds the highest income limit for MSP eligibility. Thus, MDHHS properly terminated Petitioner's application for MSP benefits due to excess income.

### **DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly terminated Petitioner's eligibility for MSP beginning November 2023. The actions taken by MDHHS are **AFFIRMED**.

CG/nr

  
\_\_\_\_\_  
**Christian Gardocki**  
Administrative Law Judge

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<sup>4</sup> MDHHS policy lists an income limit of \$2,238.50 while noting that the \$20 disregard is already factored.

**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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**Interested Parties**  
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**Via-First Class Mail :**

**Petitioner**

[REDACTED]  
MI [REDACTED]