



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]
[REDACTED], MI [REDACTED]

Date Mailed: February 20, 2024
MOAHR Docket No.: 23-008454
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 February 6, 2024, via teleconference. Petitioner appeared and represented herself. Danielle Moten, Assistance Payments Worker, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department). MDHHS introduced documentary evidence at the hearing, which was admitted as MDHHS Exhibit A, pp. 1-20.

ISSUE

Did MDHHS properly determine Petitioner's Medicaid (MA) and 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. Petitioner was an ongoing recipient of MA and MSP benefits.
2. On July 20, 2023, Petitioner submitted a redetermination to MDHHS for MA and MSP (Exhibit A, p. 10). Petitioner reported monthly Retirement, Survivors and Disability Insurance (RSDI) income (Exhibit A, p. 12). Petitioner reported that she had Medicare coverage (Exhibit A, p. 14). The due date for the redetermination was August 4, 2023 (Exhibit A, p. 10).

3. On September 30, 2023, MDHHS sent Petitioner a Verification Checklist (VCL), requesting information regarding her checking account to determine her eligibility for MSP (Exhibit A, p. 17). The VCL indicated that proofs were due by October 10, 2023 (Exhibit A, p. 17).
4. On November 7, 2023, MDHHS sent Petitioner a Health Care Coverage Determination Notice, indicating that she was eligible for the Medicare Savings Program (MSP), from September 1, 2023 to October 31, 2023, and not eligible for MSP, from December 1, 2023 ongoing, for failure to return verification of her bank account (Exhibit A, p. 6).
5. On November 22, 2023, Petitioner filed a Request for Hearing to dispute MDHHS' determination regarding her MA coverage.

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 (MA) 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.

The Medicare Savings Program (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 category 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 terminated Petitioner's MSP benefits for failure to return verification of her checking account information. Regarding MA, MDHHS determined that Petitioner was eligible for Plan First MA, a limited coverage category, and denied her for Ad-Care MA or Group 2 Aged, Blind, Disabled (G2S) MA for failure to return the

requested verification. MDHHS did not introduce a health care determination notice regarding the MA coverage, and the effective date of its decision is unclear from the record.

MA includes several sub-programs or categories. BEM 105, p. 1. To receive MA under a Supplemental Security Income (SSI)-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. *Id.* MA eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, MICHild, Flint Water Group and Health Michigan Plan (HMP) is based on Modified Adjusted Gross Income (MAGI) methodology. *Id.* The terms Group 1 and Group 2 relate to financial eligibility factors. *Id.* For Group 1, net income (countable income minus allowable income deductions) must be at or below a certain income limit for eligibility to exist. *Id.* The income limit, which varies by category, is for nonmedical needs such as food and shelter. *Id.* Medical expenses are not used when determining eligibility for MAGI-related and SSI-related Group 1 categories. *Id.* For Group 2, eligibility is possible even when net income exceeds the income limit. *Id.* This is because incurred medical expenses are used when determining eligibility for Group 2 categories. *Id.* Group 2 categories are considered a limited benefit because a deductible is possible. *Id.*

The Ad-Care program is a Group 1, full-coverage SSI-related MA program for disabled individuals who are income-eligible based on their MA fiscal group size. BEM 163 (July 2017), p. 1. However, net income for this program cannot exceed 100% of the Federal Poverty Level (FPL). *Id.* To be income eligible for this program, Petitioner's income would have had to be \$1,235.00 or less for a fiscal group-size of one. RFT 242 (April 2023), p. 1. G2S MA is an SSI-related MA category available to a person who is aged (65 or older), blind, or disabled. BEM 166 (April 2017), p. 1. Income eligibility exists when net income does not exceed the Group 2 needs in BEM 544. *Id.* If net income exceeds the Group 2 needs, MA eligibility is still possible with a deductible. *Id.* Plan First MA is a MAGI-related limited coverage MA category, that covers services related to family planning and reproductive health. To be eligible for Plan First, a person must meet all non-financial eligibility factors and their income cannot exceed 195% of the Federal Poverty Level (FPL). BEM 124 (July 2023), p. 1. Persons may qualify under more than one MA category. *Id.*, p. 2. Federal law gives them the right to the most beneficial category. *Id.* The most beneficial category is the one that results in eligibility, the least amount of excess income or the lowest cost share. *Id.*

MDHHS is required to verify information when required by policy or when an eligibility factor is unclear, inconsistent, incomplete, or contradictory. BAM 130 (January 2023), p. 1. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit levels. *Id.* MDHHS must tell the client what verification is required, how to obtain it, and the due date. *Id.*, p. 3. The client must obtain the requested verification, but the local office must assist if the client needs and requests help. *Id.*, p. 4. If neither the client nor the local office can obtain verification despite a reasonable effort, MDHHS is required to use the best available information. *Id.* If no evidence is available, MDHHS must use its best judgment. *Id.*

The record shows that Petitioner submitted a redetermination for MA and MSP, reporting that her only source of income was Retirement, Survivors, and Disability Insurance (RSDI) (Exhibit A, p. 12). Petitioner did not report any assets, such as a checking or savings account (Exhibit A, p. 11). MDHHS received information that Petitioner had a Chase checking account when she submitted the redetermination (Exhibit A, p. 19). MDHHS alleged that it needed verification of Petitioner's checking account information in order to process her redetermination for MA and MSP.

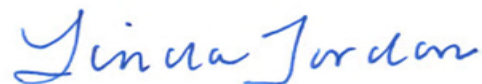
At the hearing, Petitioner credibly testified that she submitted a copy of her checking account statement to MDHHS multiple times. She testified that she sent the document via mail and took a copy to her local MDHHS office in-person prior to the deadline on the VCL. MDHHS stated that it received the documentation on December 8, 2023, which was the same day as the pre-hearing conference. MDHHS did not provide evidence to rebut Petitioner's testimony regarding the previous attempts to supply the verification. Based on Petitioner's credible testimony, the record reflects that she made reasonable attempts to cooperate with MDHHS' verification request.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner's eligibility for MA and 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. Reprocess Petitioner's July 20, 2023 MA and MSP redetermination, requesting additional verification only as necessary to determine eligibility;
2. Redetermine Petitioner's eligibility for MA and MSP benefits, and provide Petitioner with the most beneficial MA and MSP coverage that she is eligible to receive, from July 20, 2023 ongoing; and
3. Notify Petitioner of its decision(s) 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
Tara Roland 82-17
Wayne-Greenfield/Joy-DHHS
8655 Greenfield
Detroit, MI 48228
**MDHHS-Wayne-17-
hearings@michigan.gov**

Interested Parties
Wayne 17 County DHHS
BSC4
M. Schaefer
EQAD
MOAHR

Via-First Class Mail :

Petitioner
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED], MI [REDACTED]