



STATE OF MICHIGAN

GRETCHEN WHITMER  
GOVERNOR

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

MARLON I. BROWN, DPA  
ACTING DIRECTOR

Date Mailed: April 18, 2024  
MOAHR Docket No.: 24-001344  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

[REDACTED]  
MI [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun**

**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 April 15, 2024, from Detroit, Michigan. Petitioner appeared for the hearing with her daughter/Authorized Hearing Representative (AHR) [REDACTED]. The Department of Health and Human Services (Department) was represented by Shana Bush, Lead Worker.

**ISSUE**

Did the Department properly determine that Petitioner was ineligible for Medicare Savings Program (MSP) benefits due to excess assets?

**FINDINGS OF FACT**

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

1. On or around [REDACTED] 2023, Petitioner submitted an application requesting Medicare Savings Program (MSP) benefits. (Exhibit A, pp. 26- 47)
  - a. On the application, Petitioner reported that she has a savings account with [REDACTED] Bank that had a balance of \$400 and a life insurance policy with a face value of \$5,000.
2. On or around October 18, 2023, the Department sent Petitioner a DHS-1004 Health Care Coverage Supplemental Questionnaire (Questionnaire), which she

was instructed to complete and return with all requested verifications by October 30, 2023. (Exhibit A, pp. 53-56)

3. Petitioner timely returned the Questionnaire and submitted verification of her [REDACTED] Bank account which reflected a balance of \$718.98 and the life insurance policy that had a face value of \$5,000 and a cash surrender value of \$2,136.65. (Exhibit A, pp. 53-58)
4. On or around October 25, 2023, an asset detection report was completed by the Department and identified a joint bank account associated with Petitioner's name through [REDACTED]. The savings account was in Petitioner and her daughter [REDACTED] name and was identified to have a balance in excess of \$103,000. (Exhibit A, p. 59)
5. Petitioner's AHR confirmed that at the time of the application, Petitioner was the joint owner of a bank account with the AHR that had a balance of greater than \$103,000.
6. On November 30, 2023, the Department sent Petitioner a Health Care Coverage Determination Notice (Notice) advising her that her request for MSP benefits was denied and that effective October 1, 2023, she was determined ineligible for MSP because the value of her countable assets was higher than allowed. (Exhibit A, pp. 60-62)
7. On or around February 1, 2024, a hearing was requested on Petitioner's behalf by her then Authorized Hearing Representative [REDACTED] of Change Healthcare disputing the Department's denial of her MSP application. (Exhibit A, pp.3-6)
8. At the commencement of the hearing, Petitioner withdrew the authorization to represent initially granted to Change Healthcare, as she had been unable to maintain any communication with the previous AHR and Ms. [REDACTED] had not returned any of Petitioner's calls. Petitioner appointed her daughter [REDACTED] as AHR on her behalf.

### **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.

The goal of the Medicaid program is to ensure that essential health care services are made available to those who otherwise would not have the financial resources to purchase them and who meet the financial and nonfinancial eligibility factors. Medicaid, also known as the Medical Assistance (MA) program, is comprised of several sub-programs or categories. BEM 100 (April 2023), pp. 1-2; BEM 105 (January 2024), p.1. The United States Department of Health and Human Services (HHS) develops and issues federal regulations that set the requirements and guidelines for states to follow in the determination of MA eligibility. BEM 100, pp.1-2.

MA is available under SSI-related categories to individuals who are aged (65 or older), entitled to Medicare, blind or disabled. 42 CFR 435.911; 42 CFR 435.100 to 435.172; BEM 105, p. 1. Asset eligibility is required for MA coverage under SSI-related MA categories. BEM 400 (July 2023), p. 1-8; BEM 105, p. 1. 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 (October 2022), 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.

The Department will consider the value of cash assets in determining a client's asset eligibility for MSP. Cash assets include money/currency, uncashed checks, drafts, and warrants, as well as, money in checking, savings, money market, and/or certificate of deposit (CD or time deposit) accounts. BEM 400, pp. 14-18. An asset must be available to be countable. Available means that someone in the asset group has the legal right to use or dispose of the asset. The Department is to assume that an asset is available unless evidence shows it is not available. BEM 400, p. 10. For jointly owned assets that have more than one owner, an asset is unavailable if all the following are true, and an owner cannot sell or spend his share of an asset: without another owner's consent, the other owner is not in the asset group, and the other owner refuses consent. BEM 400, pp. 12. Additionally, for joint cash assets, the Department is to count the entire amount unless the person claims and verifies a different ownership. Then, each owner's share is the amount the own. BEM 400, pp. 12-13. Asset eligibility will exist when the asset group's countable assets are less than, or equal to, the applicable asset limit at least one day during the month being tested. BEM 400, p. 6. For MSP eligibility, countable assets cannot exceed the asset limit outlined in BEM 400 and countable assets are determined based on MA policies in BEM 400, 401, and 402. BEM 165, p. 8. For MSP cases, effective January 1, 2023, the asset limit for Petitioner's asset group size of one is \$9,090. BEM 400, pp. 7-8; BEM 211 (October 2023), pp. 1-9.

In this case, the Department contended that Petitioner was ineligible for MSP benefits because the value of her countable assets exceeded the limit for MSP eligibility.

Although the Department did not present an MA Asset Budget for review showing the exact breakdown of assets considered, the Department testified that in making its determination that Petitioner had excess assets, the Department relied on the information obtained from the bank statements and life insurance policy verification presented for review, as well as the asset detection report, specifically considering the value of the cash assets in the joint bank account held by Petitioner and her daughter/AHR, which totaled greater than \$103,000. The Department representative testified that Petitioner was advised of her ineligibility and the denial of her request for MSP benefits through the issuance of the November 30, 2023, Health Care Coverage Determination Notice.

Petitioner's AHR did not dispute that at the time of the application, she was the joint owner of the savings account with [REDACTED] identified on the asset detection report and did not dispute that during the application month, the lowest balance in the account was greater than \$103,000. Petitioner's AHR asserted that the funds in the account are her own and that she is the taxpayer holder. Petitioner's AHR testified that Petitioner does not contribute to the funds in the account. There was no documentary evidence presented at the hearing in support of the AHR's testimony, however, and no evidence presented that Petitioner or her AHR verified different ownership with the Department. Additionally, Petitioner's AHR did not dispute that the funds were available to Petitioner or that Petitioner had the legal right to deposit or withdraw money from the joint bank account. Although Petitioner's AHR asserted that Petitioner was removed from the joint account at some point at the end of October 2023 or in November 2023, she could not recall the exact date, and no documentary evidence was presented to verify the testimony.

Upon thorough review and notwithstanding the arguments offered by Petitioner and her AHR during the hearing, based on the evidence presented, including the asset detection report presented for review, and Petitioner's AHR's testimony, the evidence was sufficient to show that the value of Petitioner's available cash assets exceeded the \$9,090 limit for MSP eligibility.

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 concluded that Petitioner was ineligible for MSP benefits due to excess assets and subsequently denied her [REDACTED] 2023, MSP application.

**DECISION AND ORDER**

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



ZB/ml

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**Zainab A. Baydoun**  
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**

Vivian Worden

Macomb County DHHS Mt. Clemens Dist.

44777 Gratiot

Clinton Township, MI 48036

**MDHHS-Macomb-12-Hearings@michigan.gov**

**Interested Parties**

BSC4

M Schaefer

EQAD

**Via First Class Mail:**

**Authorized Hearing Rep.**

[REDACTED]  
[REDACTED]  
[REDACTED] MI [REDACTED]

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED] MI [REDACTED]