



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
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971 E ROBINWOOD ST
DETROIT, MI 48203

Date Mailed: May 3, 2024
MOAHR Docket No.: 24-002383
Agency No.: 103154907
Petitioner: George Hardnett, Jr.

ADMINISTRATIVE LAW JUDGE: Julia Norton

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 29, 2024. Petitioner was present and self-represented. The Department of Health and Human Services (Department) was represented by Dania Ajami, Eligibility Specialist.

ISSUE

Did the Department properly determine Petitioner's Medicaid (MA) 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 a recipient of MA under the AD-Care program. Coverage ended on March 1, 2024.
2. Petitioner is 65 years old and is neither married nor the caretaker of a minor child.
3. Petitioner files taxes and claims no dependents.
4. On December 31, 2023, the Department sent a redetermination to Petitioner for MA coverage.
5. On or about January 11, 2024, Petitioner returned the redetermination to the Department and included information about his bank accounts and employment. Exhibit A, pp. 6-12.

6. Petitioner provided documentation of two bank accounts, Citizens Bank, balance as of December 31, 2023, of \$8,481.28, and Chase Bank, balance as of December 20, 2023, of \$7,853.82. The Chase Bank account is a joint account with [REDACTED]. Exhibit A, pp. 15-16.
7. On January 20, 2024, the Department sent a Verification Checklist to Petitioner requesting documentation of employment and self-employment income with a due date of January 30, 2024. Exhibit A, pp. 13-14.
8. On or about February 5, 2024, Petitioner provided documentation of 2023 income from the [REDACTED] and [REDACTED] [REDACTED] - [REDACTED] for a total of [REDACTED] of earned income. Exhibit A, pp. 17-24.
9. The Department notified Petitioner that he was ineligible for MA based on income of [REDACTED].
10. On or about February 29, 2024, Petitioner submitted a request for hearing, disputing the Department's eligibility determination. Exhibit A, pp. 3-4.
11. On March 8, 2024, the Department reopened Petitioner's case. The Department issued a Health Care Coverage Determination Notice to Petitioner indicating that Petitioner was only eligible for Plan First Family Planning (PFFP) coverage March 1, 2024 ongoing and was not eligible for Medicare Savings Program (MSP) benefits March 1, 2024 ongoing because of excess assets and for not returning verification of missing check stubs. Exhibit A, pp. 31-34.

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.

Petitioner disputed the Department's finding that he was not eligible for MA coverage and MSP benefits for March 1, 2024 ongoing.

MA is available (i) under SSI-related categories to individuals who are aged (65 or older), blind or disabled, (ii) to individuals who are under age 19, parents or caretakers of children, or pregnant or recently pregnant women, (iii) to individuals who meet the eligibility criteria for Healthy Michigan Plan (HMP) coverage, and (iv) to individuals who meet the eligibility criteria for Plan First Family Planning (PFFP) coverage. 42 CFR 435.911; 42 CFR 435.100 to 435.172; BEM 105 (January 2024), p. 1; BEM 137 (January 2024), p. 1; BEM 124 (July 2023), p. 1. Under federal law, an individual eligible under more than one MA category must have eligibility determined for the category selected and is entitled to the most beneficial coverage available, which is the one that results in eligibility and the least amount of excess income or the lowest cost share. BEM 105, p. 2; 42 CFR 435.404.

In this case, Petitioner is 65 years old and is not a caretaker of a minor child. Based on his age, his receipt of Medicare and his not caring for a minor child, he would potentially be eligible for SSI-related MA coverage under AD-Care, a full coverage program; a deductible program under Group 2 SSI-related (G2S); and MSP. However, all SSI-related MA programs have asset tests. The Department explained at the hearing that it denied Petitioner SSI-related MA coverage and MSP benefits because it determined Petitioner had excess assets and had not returned verification of missing check stubs. At the hearing, the Department clarified that it had received all outstanding employment verification documents and the only remaining reason for the denial of MA coverage and MSP benefits was Petitioner's excess assets.

The Department is required to consider a client's assets when determining eligibility for certain MA categories. BEM 400 (April 2024), p. 1. Countable assets cannot exceed the applicable asset limit. *Id.* Assets include cash, personal property and real property. BEM 400, p. 2. All types of assets are considered for SSI-related MA categories. *Id.*, p. 3. Not all assets are considered countable. *Id.*, p. 2. An asset is countable if it meets the availability test and is not excluded. *Id.* The Department is required to assume that the asset is available unless evidence shows that it is not available. *Id.* An asset is available if someone in the group has the legal right to use or dispose of the asset. *Id.*, p. 10.

Petitioner's bank accounts are countable assets. BEM 400, pp. 15-16. The account at Citizens Bank was in Petitioner's name and had a balance as of December 31, 2023, of \$8,481.28. The account at Chase Bank had a balance as of December 20, 2023, of \$7,853.82. The Chase Bank account is a joint account with Bernice L. Garrison and Petitioner testified he has access to the full amount of the funds in the Chase Bank account. Petitioner did not dispute the account balances. Petitioner testified that when he works and is paid by the [REDACTED] or [REDACTED] he cashes his checks and does not deposit the checks into the bank accounts. Therefore, none of the funds in the bank accounts included current income. BEM 400, p. 23. Petitioner also testified that the accounts contained unemployment benefits received during the COVID 19 federal Health emergency. Past unemployment benefits are not excluded assets. *Id.* Petitioner, who is not married, is an asset group of one. BEM 211 (October 2023), p. 5.

AD-Care has an asset limit of \$2,000.00 for an asset group of one. BEM 400, p. 8. MSP has an asset limit of \$9,430.00 for an asset group of one, effective January 1, 2024. *Id.*

Petitioner's total countable assets exceed both the \$2,000.00 asset limit for AD-Care and the \$9,430.00 asset limit for MSP benefits. The Department properly determined Petitioner was not eligible for AD-Care and MSP benefits. It is further noted that the asset limit for G2S coverage is \$2,000.00 for an asset group of one. BEM 400, p. 8. While the Department did not testify that it considered Petitioner's eligibility for G2S, the evidence presented suggests that Petitioner would not be eligible for G2S based on excess assets.

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 that Petitioner was not eligible for AD-Care and MSP based on excess assets.

DECISION AND ORDER

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



Julia Norton
Administrative Law Judge

JN/ml

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

Caryn Jackson

Wayne-Hamtramck-DHHS

12140 Joseph Campau

Hamtramck, MI 48212

MDHHS-Wayne-55-Hearings@michigan.gov

Interested Parties

BSC4

M Schaefer

EQAD

MOAHR

Via First Class Mail:

Petitioner

[REDACTED]
MI [REDACTED]