



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
DIRECTOR

[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: July 5, 2024
MOAHR Docket No.: 24-004713
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Caralyce M. Lassner

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 by telephone on June 5, 2024. Petitioner appeared and [REDACTED] [REDACTED] attended the hearing with Petitioner and acted as Petitioner's Authorized Hearing Representative (AHR) and English-Spanish translator. The Department of Health and Human Services (Department) was represented by Layana Jefferson, Hearings Facilitator and Eligibility Specialist. The Department had no objection to Petitioner's appointment of Mr. [REDACTED] as AHR or Mr. [REDACTED] role as translator.

ISSUE

Did the Department properly determine that Petitioner was ineligible for Medicare Savings Program (MSP) benefits effective February 1, 2024?

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 is over 65 years of age and has Medicare (MA) coverage. (Exhibit A, p. 4).
2. On [REDACTED] [REDACTED] 2024, the Department received a request for MSP from Petitioner. (Exhibit A, p. 3).

3. On February 2, 2024, the Department sent Petitioner the Health Care Coverage Supplemental Questionnaire (Questionnaire) with a due date of February 12, 2024. (Exhibit A, pp. 6 – 9).
4. As of March 18, 2024, Petitioner had not returned the Questionnaire and the Department sent Petitioner a Health Care Coverage Determination Notice (HCCDN) denying Petitioner's request for MSP because Petitioner had assets in excess of MSP program limits. (Exhibit A, pp. 1, 14 – 16).
5. On March 18, 2024, the Department sent Petitioner a second Questionnaire with a due date of March 29, 2024. (Exhibit A, pp. 10 – 13).
6. On April 22, 2024, the Department received the completed Questionnaire from Petitioner on which Petitioner disclosed ownership of bank accounts and two vehicles. (Exhibit A, pp. 10 – 13).
7. On April 22, 2024, the Department received a request for hearing from Petitioner, disputing the Department's determination regarding his eligibility for MSP and asserting his asset value to total about \$1,400. (Exhibit A, p. 4).
8. On April 25, 2024, the Department sent Petitioner a Verification Checklist (VCL) requesting current statements from Petitioner's checking and savings accounts by May 6, 2024. (Exhibit A, pp. 17 – 18).
9. On April 30, 2024, the Department sent Petitioner a second VCL requesting values of Petitioner's vehicles by May 10, 2024.

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 requested a hearing to dispute the Department's denial of his MSP application because Petitioner asserts that he is income-eligible for MSP – Qualified Medicare Beneficiaries (QMB). The Department denied Petitioner MSP for failure to complete the Questionnaire and having assets in excess of MSP program limits.

MSPs are SSI-related MA categories and are divided into three types of MSP: (i) Qualified Medicare Beneficiaries (QMB), (ii) Specified Low-Income Medicare Beneficiaries (SLMB), and (iii) Q1 Additional Low-Income Medicare Beneficiaries (ALMB). BEM 165 (October 2022), p. 1. All MSP categories are subject to financial eligibility factors, including limits on countable assets. BEM 165, pp. 8 – 9. For MSP, countable assets cannot exceed \$9,430 for an asset group of one or \$14,130 for an asset group of two, and all types of assets are considered when determining countable assets. BEM 165, p. 8; BEM 400 (April 2024), pp. 3, 8. The value of countable assets must be verified at the time of application for SSI-related MA and the Department may help an applicant verify ownership and/or values with various forms. BEM 400, pp. 61, 63. Clients must cooperate with the local office in determining initial and ongoing eligibility for assistance, including verification of assets, and cooperation includes completion of necessary forms. BAM 105 (March 2024), p. 7. For the MA program, when the client fails to complete the necessary forms or verify information, they are ineligible for assistance. BAM 105, pp. 8 – 9. When a client is ineligible, the Department must send a notice to the client which must include, among other things, the action being taken by the Department, such as denial of assistance, and the reason(s) for the action. BAM 220 (November 2023), pp. 2 – 3. For MA programs, the notice is the HCCDN. BAM 220, p. 22.

In this case, Petitioner requested MSP on [REDACTED] [REDACTED] 2024 and the Department sent Petitioner the Questionnaire on February 2, 2024. (Exhibit A, pp. 1, 6 – 9). The evidence established that the completed Questionnaire was due by February 12, 2024, Petitioner did not return it by the due date, which Petitioner did not dispute, and the Department sent Petitioner a HCCDN denying him MSP effective February 1, 2024. (Exhibit A, pp. 1, 6 – 9). The Department testified that Petitioner's application for MSP was denied for failure to return the Questionnaire and excess assets. (Exhibit A, pp. 1). However, the HCCDN sent to Petitioner only stated Petitioner was denied for excess assets. (Exhibit A, pp. 14 – 16). Because the HCCDN did not identify Petitioner's failure to complete the Questionnaire as a reason for denying his application and the Department testified that it reprocessed the application when it received the Questionnaire on April 22, 2024, the Department acknowledged through its action that it improperly denied the application. Specifically, the Department sent Petitioner a VCL on April 25, 2024 requesting Petitioner's bank account information (Exhibit A, pp. 17 – 18) and testified that a second VCL was sent to Petitioner on April 30, 2024 requesting information on his vehicle values and that, as of the date of the hearing, approval for MSP was pending verification of those. (Exhibit A, p. 1).

Petitioner also expressed concern regarding his current MA coverage; however, Petitioner did not request a hearing on that issue and the Department testified that Petitioner's case is currently pending for Ad-Care MA subject to his verification of assets. Because Petitioner's hearing request was limited to MSP, this Hearing Decision only addresses MSP.

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 did not

act in accordance with Department policy when it denied Petitioner MSP for having assets in excess of MSP program limits.

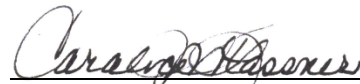
DECISION AND ORDER

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

TO THE EXTENT IT HAS NOT ALREADY DONE SO, THE DEPARTMENT 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. Continue reprocessing Petitioner's [REDACTED] 2024 MSP application;
2. If eligible, provide Petitioner with the most beneficial MSP coverage he is eligible to receive from the date of eligibility ongoing; and
3. Notify Petitioner of its decision in writing.

CML/nr



Caralyce M. Lassner
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

Dawn Tromontine
Macomb County DHHS Sterling
Heights Dist.
41227 Mound Rd.
Sterling Heights, MI 48314
**MDHHS-Macomb-36-
Hearings@michigan.gov**

Interested Parties

BSC4
M. Schaefer
EQAD
MOAHR

Via-First Class Mail :

Petitioner

[REDACTED]
[REDACTED], MI [REDACTED]