



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]
MI [REDACTED]

Date Mailed: July 26, 2024
MOAHR Docket No.: 24-005455
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 27, 2024. Petitioner appeared and, upon consent of the parties, was represented by [REDACTED] [REDACTED] as his Authorized Hearing Representative (AHR). The Department of Health and Human Services (Department) was represented by LaQuansa Shah, Eligibility Specialist, and Nicole Taylor, Assistance Payments Supervisor.

ISSUE

Did the Department properly determine Petitioner's eligibility for Medicaid (MA) coverage effective June 1, 2024?

Did the Department properly determine Petitioner's eligibility for Medicare Savings Program (MSP) - Qualified Medicare Beneficiaries (QMB) coverage?

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. (Exhibit A, p. 1).
2. Petitioner is [REDACTED] years old and not married or the caretaker of a dependent child.
3. Petitioner was an ongoing recipient of Supplemental Security Income (SSI) from the Social Security Administration (SSA) until August 3, 2022.

4. Petitioner is not currently receiving SSI or Retirement, Survivors, and Disability Insurance (RSDI) income. (Exhibit A, p. 1).
5. On May 3, 2024, the Department sent Petitioner a HCCDN approving Petitioner for Plan First Family Planning (PFFP) effective June 1, 2024 ongoing and denying Petitioner for full coverage MA and MSP for April 2024. (Exhibit A, pp. 16 – 20).
6. On May 8, 2024, the Department received a request for hearing from Petitioner, disputing his MA coverage and denial of QMB. (Exhibit A, p. 6).

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 his MA coverage and denial of MSP – QMB. The Department testified that Petitioner is currently approved for MSP – QMB. The Department determined Petitioner is eligible for PFFP only because he is a) ineligible for SSI-related MA because he is not disabled, and b) ineligible for Healthy Michigan Plan (HMP) because he is a recipient of Medicare.

SSI-Related MA

Petitioner had been receiving MA for SSI recipients, a category of SSI-related MA for individuals who are disabled, blind, or over age 65. The Department testified that it terminated Petitioner's SSI-related MA because it discovered that Petitioner was no longer receiving SSI or RSDI and concluded that Petitioner no longer meets the disability criteria for SSI-related MA coverage. (Exhibit A, p. 1).

When a client's SSI benefits stop, the Department must evaluate the reason based on SSA's negative action code and either a) close the client's SSI-related MA, if the SSI stopped due to death, the client moving out of state, or another reason that prevents continued MA eligibility, or b) transfer the client to SSI-Terminated MA (SSI-T) and set a redetermination date for the second month after the transfer to allow for an ex parte review of the client's eligibility for other MA categories. BEM 150 (January 2024), p. 6. While it is unclear whether the Department transferred Petitioner to SSI-T, the

Department determined Petitioner was no longer eligible for SSI-related MA and that he was only eligible for PFFP.

If the client's SSI is terminated due to financial factors, and the client meets all other financial and nonfinancial eligibility factors, the Department must continue medical eligibility for MA and schedule a medical review 12 months from the date of SSI termination. BEM 260 (January 2023), pp. 1 – 2; see also BAM 815. The Department is required to refer the client to the Disability Determination Services (DDS) to determine the continued disability of a client who is working but claims to still be disabled. BEM 260, p. 7. A person is disabled when all the following are true: a) they have a medically determined physical or mental impairment; b) their impairment prevents them from engaging in any substantial gainful activity; and c) their impairment can be expected to result in death, or has lasted at least 12 consecutive months, or is expected to last at least 12 consecutive months. BEM 260, p. 10.

In this case, Petitioner was an ongoing recipient of SSI until in or about August 2022. The Department testified that because Petitioner is no longer receiving SSI or RSDI, he is no longer disabled. However, he Department offered no evidence that Petitioner is no longer disabled or that Petitioner's SSI was terminated because Petitioner is no longer disabled. To the contrary, Petitioner credibly testified that he remains disabled and that his SSI was terminated due to his receipt of an employment bonus in excess of the amount he was permitted to earn while a recipient of SSI. Therefore, because the Department failed to show that Petitioner's SSI was terminated for reasons other than financial factors, not resolution of his disability, it failed to satisfy its burden showing that it acted in accordance with Department policy when it failed to evaluate his MA eligibility under SSI-related categories to determine his most beneficial coverage.

HMP

Notwithstanding the foregoing, if Petitioner is not eligible for SSI-related MA coverage or MSP, Petitioner may be eligible for HMP coverage instead of PFFP. PFFP is a limited coverage MAGI-related MA category (BEM 124 (January 2023), p. 1), while HMP provides broader coverage and is, therefore, a more beneficial coverage for individuals. In this case, the Department determined that Petitioner was not eligible for MA under Healthy Michigan Plan (HMP) because he was a Medicare recipient and one of the eligibility factors for HMP MA is that the individual cannot be a Medicare recipient. BEM 137 (January 2024), p. 1.

Petitioner is ■ years of age and there was no evidence that Petitioner has Medicare or is pregnant. So, while the Department testified that Petitioner is enrolled in MSP – QMB, which is a Medicare program (BEM 165 (October 2022)), Petitioner may not be qualified for MSP if he is not entitled to Medicare; and if Petitioner is not qualified for MSP, Petitioner may qualify for HMP, subject to meeting all other eligibility factors for HMP. Therefore, because the Department failed to establish that Petitioner is a Medicare recipient, it failed to satisfy its burden showing that it acted in accordance with Department policy when it determined Petitioner was ineligibility for HMP.

MSP

Eligibility for MSP requires that the client have, or be entitled to, Medicare Part A. BEM 165, pp. 1, 5; see also BAM 810. Here, the Department testified that Petitioner has active MSP coverage but there was no evidence that Petitioner has or is entitled to Medicare Part A, that Petitioner was notified of his MSP coverage, or that he has active MSP coverage. Therefore, the Department failed to satisfy its burden, showing that it acted in accordance with Department policy when it determined Petitioner's eligibility for MSP – QMB.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it did not establish that Petitioner was no longer disabled or the recipient of Medicare, and failed to consider his eligibility for MA under SSI-related MA categories or HMP, and did not show that Petitioner was eligible and approved for MSP – QMB.

DECISION AND ORDER

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

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. Review Petitioner's SSA record to determine whether SSA considers him disabled for April 2024 ongoing and whether he received Medicare from April 1, 2024 ongoing;
2. If SSA's determination reflects Petitioner remains disabled, assess ongoing eligibility for MA under SSI-related MA;
3. If SSA determined Petitioner is not disabled, provide Petitioner with the most beneficial coverage he is eligible to receive from April 1, 2024 ongoing; and;
4. Notify Petitioner in writing of its decision.



Caralyce M. Lassner
Administrative Law Judge

CML/nr

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

Denise Key-McCoggle
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MDHHS-Wayne-15-Greydale-Hearings@michigan.gov

Interested Parties

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M. Schaefer
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MOAHR

Via-First Class Mail :

Petitioner

[REDACTED]
[REDACTED], MI [REDACTED]