



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR



Date Mailed: [REDACTED]
MOAHR Docket No.: 22-001815
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 June 6, 2022. The Petitioner was represented by her Guardian, [REDACTED]. The Department of Health and Human Services (Department) was represented by Assistant Attorney General Kelley McLean and had as its witnesses, LaShona Callen, Assistance Payments Supervisor, and Patricia Chambers, Eligibility Specialist.

ISSUE

Did the Department properly deny Petitioner's application for Medical Assistance (MA) Program benefits?

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 elderly and suffering from dementia. She has been determined to be legally incapacitated.
2. Petitioner receives a pension or retirement income in the amount of \$714.00 per month.
3. Petitioner receives \$1,954.10 in Retirement Survivors Disability Insurance (RSDI) benefits per month.
4. Petitioner has a 403(B) retirement account with a balance of \$5,448.41 as of December 31, 2021. The account makes annual disbursements.

5. Between February 16, 2022 and March 15, 2022, Petitioner had a lowest balance of \$3,321.65 in her [REDACTED] bank account.
6. On [REDACTED] 2022, the Department received Respondent's application for MA benefits.
7. On April 5, 2022, a Health Care Coverage Supplemental Questionnaire (HCCSQ) was completed on Petitioner's behalf and submitted to the Department.
8. On April 6, 2022, the Department issued a Health Care Coverage Determination Notice (HCCDN) to Petitioner informing her that her application for MA had been denied because her countable assets were greater than the amount allowed for the program.
9. On April 27, 2022, a request for hearing was submitted on Petitioner's behalf disputing her denial of MA benefits.

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.

In this case, Petitioner's application for MA benefits was denied due to excess assets. Assets are considered in determining eligibility for SSI-Related MA programs. BEM 400 (January 2022), p. 1. SSI-Related MA categories, including the Medicare Savings Program (MSP), are for people who are age 65 or older, blind, disabled, entitled to Medicare, or formerly blind or disabled. BEM 105 (January 2021), p. 1. The SSI-related MA asset limit for a group size of one is \$2,000.00. BEM 400, p. 9. Effective January 2022, the Medicare Savings Program (MSP) asset limit is \$8,400.00 for a group size of one. BEM 400, p. 8. Asset eligibility exists when countable assets are less than or equal to the asset limit at least one day during the month being tested. BEM 400, p. 7.

Petitioner's bank account had a lowest balance of \$3,411.59 in between February 16, 2022 and March 15, 2022. This balance included her monthly RSDI benefit deposit. Per policy, funds cannot be counted as both income and assets in the same benefit

month. BEM 500 (July 2020), p. 7. After exclusion of Petitioner's net RSDI benefit of \$1,605.60, Petitioner's total asset value is \$1,805.99.

At the hearing, the Department asserted that Petitioner's 403(B) annuity through [REDACTED] was still being evaluated to determine whether it should be considered an asset or income. If Petitioner's annuity is considered an asset, she may be ineligible for MA and MSP benefits based upon excess assets. If Petitioner's annuity is considered income, then Petitioner may be asset eligible for MA and MSP benefits, but other eligibility factors including income need to be considered.

The Department also testified that Petitioner's application for MA benefits was denied due to excess income. Medicaid (also known as MA) is available (i) under Supplemental Security Income (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, and (iii) to individuals who meet the eligibility criteria for Healthy Michigan Plan (HMP) coverage. BEM 105, p. 1.

Petitioner is not under age 21 or pregnant. No evidence was presented that Petitioner was a parent or caretaker of a minor child, or former foster child. Therefore, the programs for each of these groups are inapplicable to the Petitioner.

HMP provides MA coverage to individuals who (i) are 19 to 64 years of age; (ii) have income at or below 133% of the federal poverty level (FPL) under the Modified Adjusted Gross Income (MAGI) methodology; (iii) do not qualify for or are not enrolled in Medicare; (iv) do not qualify for or are not enrolled in other MA programs; (v) are not pregnant at the time of application; and (vi) are residents of the State of Michigan. BEM 137 (June 2020), p. 1; MPM, Healthy Michigan Plan, § 1.1. Since Petitioner is disabled, she is not eligible for HMP.

In determining the SSI-related MA category Petitioner is eligible to receive, the Department must determine Petitioner's MA fiscal group size and net income. Petitioner has a group size for SSI-related MA purposes of one as no evidence was presented that she is married. BEM 211 (July 2019), p. 8. Petitioner has at least two sources of income. Her first source of income is her Retirement Survivors Disability Insurance (RSDI) of \$1,954.10 per month. Petitioner's second source of income is her pension of \$714.00 per month.

The Ad-Care program, an SSI-related MA category, requires that net group income cannot exceed one hundred percent of the federal poverty level plus \$20.00. BEM 163, pp. 1-2. The 2022 federal poverty level for a one-person household is \$13,590.00 annually or \$1,132.50 per month. <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>. The net income limit is established adding \$20.00 to the FPL as seen in RFT 242, \$1,094.00 for a group size of one effective April 1, 2021. RFT 242 (November 2021), p. 1. Effective April 1, 2022, the limit increased to \$1,153.00 for a group size of one. RFT 242 (April 2022), p. 1.

Countable income is calculated by adding the amounts of income actually received or reasonably anticipated within the month. BEM 530 (April 2020), p. 2. Petitioner has gross RSDI income of \$1,954.10 and a pension of \$714.00 for a total of \$2,668.00. Next, \$20.00 is subtracted for the general exclusion and Petitioner's Net Income is \$2,648.00. BEM 541 (January 2022), p. 3. Therefore, Petitioner's Net Income is greater than the net income limit and the FPL. Petitioner is not eligible for the full coverage Ad-Care program based upon income.

Since Petitioner has excess income for eligibility under the Ad-Care program, the full coverage SSI-related MA program, an evaluation of Petitioner's eligibility for MA coverage under the Group 2 program would normally follow. Group 2 provides MA coverage with a deductible. BEM 105, p. 1. However, because Petitioner's eligibility for a deductible MA program is still contingent on her asset eligibility and it would also be affected by whether her annuity is considered an asset or income, no decision is rendered regarding potential eligibility for Group 2-Aged, Blind, Disabled.

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 denied Petitioner's application for MA and MSP benefits.

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. Reprocess Petitioner's MA application;
2. If otherwise eligible, issue supplements to Petitioner or on her behalf for benefits not previously received; and,
3. Notify Petitioner in writing of its decision.

AMTM/cc



Amanda M. T. Marler
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 :

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Interested Parties

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Petitioner

