



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: August 11, 2022
MOAHR Docket No.: 22-002904
Agency No.: ██████████
Petitioner: ██████████

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 August 4, 2022, from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Sylvester Williams, Assistance Payments Supervisor.

ISSUE

Did the Department properly determine Petitioner's eligibility for Medicare Savings Program (MSP) 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. The Department completed an MSP determination, as Petitioner became entitled to Medicare in April 2022.
2. On or around May 16, 2022, the Department sent Petitioner a Health Care Coverage Determination Notice, advising her that she was determined to be ineligible for MSP benefits because her income exceeded the limit. (Exhibit A, pp. 5-6)
3. On or around July 5, 2022, Petitioner requested a hearing disputing the Department's actions with respect to her MSP benefits. (Exhibit A, pp. 3-4)
4. After receiving Petitioner's hearing request, the Department reprocessed Petitioner's MSP eligibility and determined that she was eligible for MSP under the

Specified Low-Income Beneficiaries (SLMB) category. The Department approved Petitioner for SLMB coverage effective July 1, 2022.

5. The Department conceded that Petitioner should have been approved for MSP benefits under the SLMB for the month of April 2022, ongoing.

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.

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 2020), 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.

Income is the major determiner of category. The monthly income limits for Petitioner's fiscal group size are identified in RFT 242 (April 2021). For QMB eligibility, net income cannot exceed 100% of the poverty level, plus the \$20 disregard for RSDI income. For SLMB eligibility, net income is over 100% but not over 120% of the poverty level, plus the \$20 disregard for RSDI income and for ALMB eligibility, net income is over 120% but not over 135% of the poverty level, plus the \$20 disregard for RSDI income. RFT 242, p.1; BEM 165, pp. 1-2, 8-10. The Department is to determine countable income according to the SSI-related MA policies in BEM 500, 501, 502, 503, 504, and 530, except as otherwise explained in BEM 165. RFT 242, pp1-2; BEM 165, pp. 8-10. The Department will also apply the deductions in BEM 540 (for children) and BEM 541 (for adults) to countable income to determine net income. BEM 165, pp. 8-10.

Once determined eligible, QMB coverage begins the calendar month after the processing month, which is the month in which an eligibility determination is made. QMB is not available for past months or the processing month. SLMB coverage is available for retro Medical Assistance (MA) months and later months. ALMB coverage is

available for retro MA months and later months; however, not for time in a previous calendar year. BEM 165, pp. 3-5.

In this case, the Petitioner requested a hearing disputing the Department's determination that she was ineligible for MSP benefits effective April 1, 2022, due to excess income as reflected in the Health Care Coverage Determination Notice dated May 16, 2022. At the hearing, the Department representative testified that after receiving Petitioner's hearing request, it reprocessed Petitioner's eligibility for MSP, as she was initially denied coverage in error. The Department representative testified that based on her income, Petitioner was approved for MSP coverage effective July 1, 2022, ongoing under the SLMB category. The Department representative conceded that Petitioner was denied coverage for April 2022, May 2022, and June 2022 in error and that the case worker should have contacted the help desk for assistance in running eligibility back to April 2022 as Petitioner should have been approved for MSP benefits under the SLMB category effective April 1, 2022.

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 determined that Petitioner was ineligible for MSP benefits effective April 1, 2022.


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. Activate Petitioner's MSP coverage under the SLMB category effective April 1, 2022, ongoing;
2. Process the Medicare Buy In and supplement Petitioner and/or the Social Security Administration for Medicare premiums in accordance with Department policy; and
3. Notify Petitioner in writing of its decision.

ZB/ml



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
Linda Gooden
Oakland County Southfield District III
25620 W. 8 Mile Rd
Southfield, MI 48033
**MDHHS-Oakland-6303-
Hearings@michigan.gov**

Interested Parties

BSC4
C. George
EQAD
MOAHR

Via First Class Mail :

Petitioner

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