



GRETCHEN WHITMER
GOVERNOR

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

MARLON BROWN DPA
DIRECTOR

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Date Mailed: April 18, 2024
MOAHR Docket No.: 24-002106
Agency No.: ██████████
Petitioner: ██████████

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 April 8, 2024. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Loryana Jefferson, Hearings Facilitator and Eligibility Specialist.

ISSUE

Did the Department properly determine Petitioner's Medical Assistance (MA) Program 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. On February 12, 2024, the Department received Petitioner's application for MA benefits for herself and her husband indicating that they file taxes jointly and have no dependents, that her husband has a disability benefit of \$██████████ per month and requesting Medicare Savings Program (MSP) coverage for Petitioner.
2. Petitioner receives \$██████████ per month in Retirement Survivors Disability Insurance (RSDI) benefits.
3. Petitioner's husband receives \$██████████ per month in RSDI benefits.
4. The next day the Department issued a Health Care Coverage Determination Notice (HCCDN) to Petitioner advising her that she was eligible for Plan First (PF) coverage

effective February 2024 and ineligible for the Medicare Savings Program (MSP) coverage effective August 2023 due to assets greater than the asset limit.

5. On February 28, 2024, the Department received Petitioner's request for hearing disputing the Department's determination of MA eligibility.
6. After receiving Petitioner's request for hearing, the Department reprocessed Petitioner's application and issued a Verification Checklist (VCL) requesting proof of checking and savings accounts from Petitioner by March 11, 2024.
7. The Department received verification of Petitioner's accounts showing the following:
 - [REDACTED] account ending in [REDACTED]—a current balance of \$[REDACTED] and average balance of \$[REDACTED] for the past 12 months
 - [REDACTED] account ending in [REDACTED]—a current balance of \$[REDACTED] and an average balance of \$[REDACTED] for the past 12 months
 - [REDACTED]—Petitioner was removed from two accounts ending in [REDACTED] and [REDACTED] as an account holder effective March 4, 2024
 - [REDACTED]—beginning balance of \$[REDACTED] in January 2023; \$[REDACTED] in June 2023; and an ending Balance of \$[REDACTED] in December 2023
8. On March 22, 2024, the Department issued a second HCCDN to Petitioner advising her that effective June 1, 2023, Petitioner was not eligible for MSP because her assets exceeded the limit for the program.
9. On April 8, 2024, the Department issued a third HCCDN to Petitioner advising her that effective March 2024, she was eligible for MA with a deductible of \$1,853.00 per month; that effective April 2024, she was eligible for MA with a deductible of \$1,935.00 per month; that effective May 1, 2024, Petitioner was eligible for PF; and finally, that both Petitioner and her husband were ineligible for MSP benefits from June 2023 through April 2024 based upon assets greater than the asset limit.
10. At the hearing, the parties agreed to address the Department's decisions regarding MSP and MA with a deductible despite those decisions having been issued after Petitioner's hearing request.

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 disputes the Department's determination of MA eligibility.

ASSET TESTS FOR ADCARE, GROUP 2-AGED, BLIND, DISABLED (G2S), AND MSP

Petitioner and her husband were determined to have excess assets for MSP by the Department. Asset eligibility is required for all SSI-related MA categories including G2S, AD-Care, and all MSP categories. BEM 400 (July 2023), p. 6. Modified Adjusted Gross Income (MAGI) MA (HMP, LIF, PF, and others) categories do not have an asset test. *Id.* Asset eligibility exists when the asset group's countable assets are less than, or equal to, the applicable asset limit at least one day during the month being tested. BEM 400, p. 7. For MSP with a group size of two (because they are married), the asset limit effective January 1, 2023 was \$13,630.00. BEM 400, p. 8. For all other SSI-related MA categories, including AD-Care and G2S and excluding QDWI, the asset limit was \$3,000.00 for a group size of two. *Id.* The Department is not required to verify assets when countable assets exceed the applicable asset limit based on a person's own statement of value. BEM 400, p. 61.

In this case, Petitioner provided verification of her assets in checking and savings accounts as well as an IRA which were valued at \$██████████ (the least amount Petitioner and his wife could possibly have based on reported balances) in June 2023 and \$██████████ in December 2023. Based solely on their bank account assets, Petitioner and his wife are ineligible for AD-Care and G2S, but eligible for MSP. The Department erred in denying MSP eligibility to Petitioner and granting G2S eligibility based on assets. It is notable that the verifications provided do not actually provide a verification of the minimum balances for each month but merely give an average balance and a current balance. Given the small disparity in balances, this was overlooked for purposes of this decision.

MEDICARE SAVINGS PROGRAM (MSP)

Because Petitioner is asset eligible for MSP, an evaluation of her eligibility based on income follows next. The MSP is divided into three subcategories. BEM 165 (October 2022), p. 1. Qualified Medicare Beneficiary (QMB) is the full coverage MSP. BEM 165, p. 1. Specified Low-Income Medicare Beneficiary (SLMB) is a limited coverage MSP. *Id.* The third MSP category is the Additional Low-Income Medicare Beneficiary (ALMB). *Id.* QMB pays for Medicare premiums, coinsurances, and deductibles. BEM 165, p. 2. SLMB pays Medicare Part B premiums. *Id.* ALMB pays for Medicare Part B premiums if funding is available. *Id.*

Income determines placement in the programs. BEM 165, p. 1. For QMB, net income cannot exceed 100% of the federal poverty level, the same as AD-Care. *Id.* SLMB is

available for individuals whose income is over 100% of the federal poverty level, but not more than 120% of the federal poverty level. *Id.* Finally, ALMB is available to those whose income exceeds 120% of the federal poverty level but does not exceed 135%. *Id.* The 2023 federal poverty level and income limit for QMB for a two-person household (Petitioner and her husband) is \$19,720.00 or \$1,643.33 per month. <https://www.federalregister.gov/documents/2023/01/19/2023-00885/annual-update-of-the-hhs-poverty-guidelines>; RFT 242 (April 2023), p. 1; BEM 211 (October 2023), p. 8. The income limit for SLMB is \$23,664.00 or \$1,972.00. *Id.* Finally, the income limit for ALMB is \$26,622.00 or \$2,218.50. *Id.* The net income limit is established through policy by subtracting \$20.00 from the amount shown in RFT 242.

To determine the countable income for purposes of MSP benefits, the Department relies on the same policies as utilized for AD-Care and G2S: BEM 500, 501, 502, 503, 504, 530, 540, and 541. BEM 165, p. 8.

In determining the eligibility, the Department must determine Petitioner's MA fiscal group size and net income. Petitioner has a group size of two for Supplemental Security Income (SSI)-related MA purposes. BEM 211, p. 8. Petitioner's total monthly income from RSDI is \$[REDACTED] and her husband's is \$[REDACTED].

Countable income is calculated by adding the amount of income actually received/available within the past month. BEM 530 (April 2020), p. 2. First, their RSDI income is considered totaling \$[REDACTED]. Next, the \$20.00 general exclusion is deducted. BEM 541 (January 2023), p. 3. Petitioner and her husband do not have any earned income, therefore the \$65 and ½ of remaining earnings is not considered. BEM 541, p. 3. Petitioner's and her husband's net income of \$[REDACTED] is greater than the net income limit set by policy for all categories of the MSP. Petitioner and her husband are not eligible for the MSP based on income.

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 eligible for G2S with a deductible.

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. Redetermine Petitioner's asset eligibility for G2S effective March 2024;

2. 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 :

Interested Parties

MDHHS-Macomb-36-Hearings
BSC4-HearingDecisions
EQADHearings
M. Schaefer
MOAHR

Via-First Class Mail :

Petitioner

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