



GRETCHEN WHITMER
GOVERNOR

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

MARLON BROWN
DIRECTOR

████████████████████
████████████████████
██████████ MI ██████████

Date Mailed: June 6, 2024
MOAHR Docket No.: 24-004573
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Julia Norton

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 May 29, 2024. Petitioner was not present and was represented by ██████████ ██████████, Authorized Hearing Representative (AHR). The Department of Health and Human Services (Department) was represented by Diane Sacha, Eligibility Specialist.

ISSUE

Did the Department properly determine Petitioner's eligibility for Medicaid (MA) coverage and 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. Petitioner is █████ years old, is not married and lives in █████ County.
2. Petitioner does not file taxes.
3. Petitioner had Group 2 SSI-related MA (G2S) coverage with a zero deductible from January 1, 2023 through September 30, 2023.
4. Effective October 1, 2023, Petitioner's MA case was closed for failing to return a medical verification.
5. Petitioner applied for MA coverage on █████ 2024. Exhibit A, pp. 9-14.

6. On March 21, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice (HCCDN) indicating that Petitioner was not eligible for MSP benefits February 1, 2024 ongoing due to excess income. Exhibit A, pp. 19-20.
7. Petitioner receives Retirement, Survivors and Disability Insurance (RSDI) income of \$██████████ per month and pension income of \$██████████ per month. Exhibit B, p.1.
8. Petitioner's checking account had a balance of \$██████████ as of February 26, 2024. Exhibit A, p.17.
9. On April 15, 2024, the Department received Petitioner's request for hearing disputing the denial of MA coverage and MSP benefits. Exhibit A, pp. 4-5.

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 that Petitioner is not eligible for MA coverage or MSP benefits. At the hearing the Department explained that Petitioner's application was denied because of excess income and excess assets.

MA

MA is available (i) under 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, (iii) to individuals who meet the eligibility criteria for Healthy Michigan Plan (HMP) coverage, and (iv) to individuals who meet the eligibility criteria for Plan First Family Planning (PFFP) coverage. 42 CFR 435.911; 42 CFR 435.100 to 435.172; BEM 105 (January 2024), p. 1; BEM 137 (January 2024), p. 1; BEM 124 (July 2023), p. 1. Under federal law, an individual eligible under more than one MA category must have eligibility determined for the category selected and is entitled to the most beneficial coverage available, which is the one that results in eligibility and the least amount of excess income or the lowest cost share. BEM 105, p. 2; 42 CFR 435.404.

In this case, Petitioner is [REDACTED] years old and is not a caretaker of a minor child. He is potentially eligible for SSI-related MA coverage under AD-Care, a full coverage program; a deductible program under Group 2 SSI-related (G2S); and MSP. The HCCDN indicated Petitioner was not eligible for MSP based on excess income. At the hearing, the Department explained Petitioner was ineligible for SSI-related MA coverage and MSP benefits because Petitioner had both excess income and excess assets.

All SSI-related MA programs have asset tests. The Department is required to consider a client's assets when determining eligibility for certain MA categories. BEM 400 (April 2024), p. 1. Countable assets cannot exceed the applicable asset limit. *Id.* Assets include cash, including cash in bank accounts, personal property and real property. BEM 400, p. 2. All types of assets are considered for SSI-related MA categories. *Id.*, p. 3. An asset is countable if it meets the availability test and is not excluded. *Id.* The Department is required to assume that the asset is available unless evidence shows that it is not available. *Id.* An asset is available if someone in the group has the legal right to use or dispose of the asset. *Id.*, p. 10. Petitioner, who is not married, is an asset group of one. BEM 211 (October 2023), p. 5. AD-Care and G2S have an asset limit of \$2,000.00 for an asset group of one. BEM 400, p. 8.

Petitioner's checking account is a countable asset. BEM 400, pp. 15-16. The account at [REDACTED] Bank was in Petitioner's name and had a balance as of February 26, 2024 of \$[REDACTED]. Exhibit A, p.17. AHR did not dispute the balance but testified that it was high because medical bills had not been paid since around March 2024. Petitioner's current income is not counted as an asset. BEM 400, p. 23. Therefore, Petitioner's countable asset total is \$[REDACTED] (\$[REDACTED] less his current income of \$[REDACTED] (\$[REDACTED] RSDI income plus \$[REDACTED] pension)). Because the value of Petitioner's checking account exceeded \$2,000.00 at the time of the [REDACTED] 2024 application, the Department properly determined Petitioner was not eligible for AD-Care or G2S based on excess assets.

The Department advised AHR that once Petitioner's assets are \$2,000.00 or less, Petitioner may reapply for MA coverage.

MSP

MSP has an asset limit of \$9,430.00 for an asset group of one, effective January 1, 2024. *Id.* Therefore, Petitioner does not exceed the asset limit for MSP benefits. However, the Department denied Petitioner MSP benefits because it concluded he exceeded the income limit for the program.

MSP is an SSI-related Medicaid category where the Department pays for certain Medicare expenses for eligible individuals. BEM 165 (June 2024) p. 1. Three different subcategories are available under MSP. Qualified Medicare Beneficiaries (QMB) coverage pays for a client's Medicare premiums, coinsurances, and deductibles. BEM 165, p. 2. Specified Low Income Beneficiaries (SLMB) coverage pays for a client's Medicare Part B premium. *Id.* Additional Low-Income Beneficiaries (ALMB) coverage pays for a client's Medicare Part B premium if MDHHS funding is available. *Id.*

The client's income determines the MSP subcategory eligibility. BEM 165, p. 8; RFT 242. For MSP eligibility, the Department is to determine countable income according to the SSI-related MA policies in BEM 165, 500, 501, 502, 503, 504 and 530. BEM 165, p. 8. For purposes of MSP, Petitioner, who is not married, has a group size of one. BEM 211 (October 2023), p. 5.

AHR testified that Petitioner's only income is RSDI and pension payments, for a total of \$[REDACTED] per month. When determining income eligibility for MSP, the Department allows a standard \$20.00 disregard for unearned income, disregards for employment income, deductions for guardianship/conservatorship expenses and court-ordered child support paid to a child not living with the fiscal group, and a disregard for cost-of-living adjustments (COLA) (January through March only). BEM 541 (January 2024), p.3; BEM 503, pp. 30-31. The Department did not present a budget for the MSP eligibility determination. AHR testified there was no employment income. There was no evidence presented regarding guardianship/conservatorship expenses or court-ordered child support paid to a child not living with Petitioner. Disregards applicable in this case include the \$20.00 unearned income disregard and the COLA adjustment for February. The highest income limit for any MSP category for a group size of one is \$1,714.25. RFT 242 (April 2024) p. 1; BEM 165, p. 8.

Applying the \$20.00 disregard to Petitioner's RSDI results in a net income of \$[REDACTED]. The Department did not provide evidence of the COLA adjustment amount. However, the COLA adjustment for 2024 is 3.2 percent of Petitioner's monthly RSDI income. <https://www.ssa.gov/news/press/factsheets/colafacts2024.pdf>, last accessed on June 3, 2024. Even if Petitioner's RSDI was reduced by 3.2 percent ($\$1798.00 \times 3.2\% = \57.56), after adding in his monthly pension payment, his income of \$[REDACTED] would still exceed income eligibility limits for MSP. Because Petitioner's countable net income exceeds the highest income limit for MSP eligibility, the Department properly determined Petitioner was not eligible for MSP benefits.

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 acted in accordance with Department policy when it determined Petitioner had excess assets for MA coverage and excess income for MSP benefits.

DECISION AND ORDER

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

JN/cc



Julia Norton
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-Oakland-DistrictII-Hearings
BSC4-HearingDecisions
EQADHearings
M. Schaefer
MOAHR

Via-First Class Mail :

Authorized Hearings Rep.

██████████
██████████
██████████ MI ██████████

Via-First Class Mail :

Petitioner

██████████
██████████
██████████ MI ██████████