



GRETCHEN WHITMER  
GOVERNOR

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

MARLON BROWN  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED] MI [REDACTED]

Date Mailed: June 26, 2024  
MOAHR Docket No.: 24-005551  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**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 June 20, 2024. Petitioner was present and self-represented. The Department of Health and Human Services (Department) was represented by Princess Ogundipe, Assistance Payment Supervisor.

### **ISSUE**

Did the Department properly determine Petitioner's eligibility for Medicare Savings Program (MSP) benefits for February 2024?

### **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 [REDACTED] years old and receives Retirement, Survivors and Disability Insurance (RSDI) payments of \$[REDACTED] per month. Exhibit A, p. 10.
2. Petitioner was an ongoing recipient of MSP benefits and in November 2023, the Department sent a verification check list (VCL) to Petitioner requesting verification of assets. Exhibit A, p. 16.
3. The Department failed to process proofs submitted in response to the November 2023 VCL.
4. On or around February 13, 2024, Petitioner reported to the Department that he received a lump sum insurance settlement of \$[REDACTED].

5. On February 14, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice (HCCDN) informing Petitioner that effective October 1, 2023 ongoing, he was not eligible for MSP because he had income exceeding the program limit, did not return a checking account verification, and had excess assets. Exhibit A, pp. 6-8.
6. On May 13, 2024, the Department received Petitioner's request for hearing disputing the Department's denial of MSP. Exhibit A, pp. 4-5.
7. On May 15, 2024, a prehearing conference was held, and the Department determined it had erroneously duplicated Petitioner's checking and savings accounts. The Department ended the duplicate records.
8. On May 17, 2024, the Department sent Petitioner a HCCDN informing him that he was eligible for MSP-QMB for October 1, 2023 to January 31, 2024 and March 1, 2024 ongoing and that he was eligible for full coverage MA from October 1, 2023 to January 31, 2024 and March 1, 2024 ongoing. The HCCDN denied eligibility for MSP for February 1, 2024 to February 29, 2024 due to excess assets. Exhibit A, pp. 12-15.

### **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 denial of his eligibility for MSP benefits from February 1 to February 29, 2024 for having excess assets.

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.* Non-

Categorically Eligible Michigan Beneficiary (NMB) coverage pays for pays the Medicare Part B premiums (and the part A premiums for the few who have them) for full coverage Medicaid beneficiaries not otherwise eligible for MSP. *Id.*

MSP has both income and asset eligibility limits. BEM 165, p. 8. The Department is required to consider a client's assets when determining eligibility for MSP. BEM 400 (April 2024), p. 1. Countable assets cannot exceed the applicable asset limit. *Id.* Assets include cash, personal property and real property. BEM 400, p. 2. All types of assets are considered for SSI-related MA categories. *Id.*, p. 3. Not all assets are considered countable. *Id.*, p. 2. 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 reported he received a lump sum insurance settlement of \$ [REDACTED] in February 2024. A one-time payment that is not an accumulation of monthly benefits is considered a lump sum. Examples of lump sums include income tax refunds, inheritances, insurance settlements and injury awards. BPG (June 2024), p. 42. For SSI-related MA purposes, lump sums and accumulated benefits are *income* in the month received. BEM 400 (June 2024), p. 18. Income may be countable or excluded. BEM 500 (April 2022), p. 7. The Department counts all income that is not specifically excluded. BEM 500, p.3. Department policy specifically excludes settlements from the factor concentrate litigation as countable income for SSI-related MA purposes and this is the only settlement expressly excluded by policy. BEM 503 (April 2024), p. 13. There was no evidence presented that the settlement Petitioner received was a settlement from the factor concentrate litigation. BEM 503 (April 2024), p. 13. Therefore, Petitioner's settlement is countable income. The Department improperly treated Petitioner's settlement as an asset when it should have treated it as income in the month received and then analyzed Petitioner's income eligibility for MSP benefits.

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. 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 (January through March only). BEM 541 (January 2024), p.3; BEM 503, pp. 30-31.

In this case, with the exception of February 2024, Petitioner's only monthly income was his RSDI payments. The Department reported Petitioner's RSDI was \$ [REDACTED] per month and Petitioner did not dispute this amount. The only applicable disregard is the standard \$20.00 disregard for unearned income. Applying the disregard to Petitioner's reported RSDI amount (\$ [REDACTED]) results in a net income of \$ [REDACTED]. However, when Petitioner's \$ [REDACTED] lump sum is included in his February 2024 income, his income exceeds eligibility limits for *all* MSP categories, which cap out at \$2,319.50 for a two-person MA group. BEM 400 (June 2024), p. 18; RFT 242 (April 2024) p. 1. The

Department properly determined that Petitioner was not eligible for MSP benefits for February 2024 based on receipt of the settlement which increased his income for that month. It was harmless error that the May 17, 2024 HCCDN indicated the denial was for excess assets rather than income exceeding program limits.

Petitioner also raised a refund issue related to his MSP benefit. Petitioner explained that he was not refunded for the Medicare Part B premium he paid for February 2024.

The Part B Buy-In program is used to pay Medicare Part B premiums. The program is an agreement between the Department and SSA. Department policy provides that, through the Part B Buy-In program, which administers MSP cases, Medicaid pays the Medicare premiums and enrolls persons eligible for, but not enrolled in, Medicare Part B if they are enrolled in Medicare Part A or have refused Medicare Part B enrollment. BAM 810, pp. 7-8. Generally, the Buy-In program operates automatically based on computer tapes from SSA and the Department's central office. BAM 810, p. 8. For individuals who are both Medicaid and Medicare Part B eligible, the Part B Buy-In effective date is the earliest date the client is both Medicaid and Part B eligible. BAM 810, p. 8. The Buy-In is processed at the end of the calendar month that a case is opened in Bridges, and it takes SSA about 120 days after that date in order to adjust the RSDI check and issue a refund for premiums paid by the client while the Buy-In was being processed. BAM 810, pp.7-9.

Petitioner testified that he received a check for \$698.00 refunding him for Part B premium out of pocket payments. Petitioner testified he had not been refunded for his February 2024 Part B premium payment. Because Petitioner was determined not eligible for MSP benefits for February 2024, there would be no refund for that month.

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 was not eligible for MSP benefits for February 2024.

### **DECISION AND ORDER**

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

JN/cc



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**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-District-IV-Hearings  
BSC4-HearingDecisions  
EQADHearings  
M. Schaefer  
MOAHR

**Via-First Class Mail :**

**Petitioner**

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