



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: August 20, 2024
MOAHR Docket No.: 24-006388
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: L. Alisyn Crawford

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 July 17, 2024. Petitioner was present at the hearing and represented herself. Also present at the hearing was Petitioner's granddaughter [REDACTED]. The Department of Health and Human Services (Department) was represented by Priya Johnson, Assistance Payments Supervisor.

ISSUE

Did the Department properly determine Petitioner's Medical Assistance (MA) eligibility?

Did the Department properly deny the Medicare Savings Program (MSP) for Petitioner?

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 was an ongoing recipient of full coverage MA under the Extended Care program.
2. Petitioner receives monthly unearned income from the Social Security Administration (SSA) from Retirement, Survivors, and Disability Insurance (RSDI) in the amount of [REDACTED] (after a \$174.70 deduction for payment of her medical insurance premiums). (Exhibit A, p. 20). Petitioner also has monthly unearned pension income of [REDACTED] (Exhibit A, p. 21).
3. Petitioner is [REDACTED] years old.

4. In March 2024, Petitioner's federal tax refund was deposited into her banking account.
5. Petitioner's MA case closed April 1, 2024 due to excess assets.
6. On April 25, 2024, Petitioner submitted an assistance application for MA coverage to the Department. (Exhibit A, pp. 6-19).
7. On May 17, 2024, the Department sent a Health Care Coverage Determination Notice (HCCDN) to Petitioner informing her that effective April 1, 2024 she was approved for Plan First Family Planning (PFFP) program, a limited coverage MA program. (Exhibit A, pp. 25-28). The Department also denied MSP benefits for Petitioner due to excess income effective April 1, 2024.
8. On May 28, 2024, the Department received a request for hearing from Petitioner disputing the Department's actions with respect to her MA coverage. (Exhibit A, pp. 3-5).

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.

Petitioner requested a hearing to dispute the Department's actions regarding her MA coverage. The Department concluded that based on her income Petitioner was eligible for MA coverage under the PFFP program only. The Department further concluded that Petitioner was ineligible for MSP benefits due to excess income. Petitioner disputes the MA PFFP coverage and MSP denial.

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 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 (January 2021), p. 2; 42 CFR 435.404.

Because Petitioner was over age 65 and there was no evidence that Petitioner was the parent or caretaker of a minor child, Petitioner was eligible for MA only under an SSI-related category. However, the Department determined that Petitioner had excess assets that made her ineligible for any SSI-related MA health coverage.

The Department is required to consider a client's assets when determining eligibility for SSI-related MA categories. Countable assets cannot exceed the applicable asset limit. For an unmarried individual, the SSI-related MA asset limit is \$2,000. BEM 400, p. 8. Assets include cash, personal property and real property. BEM 400, p. 2. All types of assets are considered for SSI-related MA categories, but not all assets are considered countable. BEM 400, pp. 2-3. Per Department policy, income tax refunds are considered assets the month received. BEM 500, p. 8. Federal income tax refunds are excluded from consideration of asset eligibility for 12 months from the month of receipt; the refund amount is subtracted from the household's total assets to determine if they meet the asset limit. BEM 400., p. 22.

Petitioner's only known asset were her checking and savings accounts. At the hearing, the Department indicated that the value of Petitioner's accounts in May 2024 was over the \$2,000 asset limit as she had \$5,200 in her savings account and \$1,000 in her checking account. At the hearing, Petitioner testified that she had received a federal tax refund in March 2024. Petitioner testified that the funds in her accounts were below the limit threshold as of June 2024, with about \$1,000 remaining in her savings and less than \$200 in her checking account. At the hearing, the Department acknowledged that the funds that Petitioner had in her checking and savings accounts that it concluded took her over the asset limit, may have been due to a tax refund deposited in her account in March 2024. Because tax refunds are not countable for 12 months, the Department did not satisfy its burden of showing that it properly closed Petitioner's MA case due to excess assets.

Petitioner also disputed the denial of MSP coverage. MSP is an SSI-related MA program that assists eligible individuals with their Medicare expenses. BEM 165 (October 2022), p. 1. There are three income-based categories of MSP benefits: the Qualified Medicare Beneficiary (QMB), the Special Low Income Medicare Beneficiary (SLMB), and the Additional Low Income Medicare Beneficiary (ALMB). QMB pays Medicare premiums, coinsurances, and deductibles. SLMB pays Medicare Part B premiums. ALMB pays Medicare Part B premiums provided funding is available. BEM 165 (October 2022), pp. 2-4.

Income eligibility for MSP exists when a client's income is with the limits established by policy based on the individual's fiscal group size. BEM 165 (October 2022), p. 8. Because she is unmarried, Petitioner's group size for SSI-related MA purposes is one. BEM 211

(October 2023), p. 8. For individuals with a fiscal group size of one, the income limits for MSP are as follows: (i) QMB - \$1,275; (ii) SLMB - \$1,275.01 to \$1,526.00; and (iii) ALMB - \$1,526.01 to \$1,714.25. RFT 242 (April 2024), p. 1.

Petitioner's fiscal net income for MSP purposes is the sum of (i) Petitioner's RSDI unearned income of [REDACTED] and (ii) Petitioner's pension payments of [REDACTED]. Unearned income is reduced by a \$20 disregard, which results in net income of [REDACTED]. Because Petitioner's net income of [REDACTED] exceeds the income limit for all MSP categories, the Department properly denied MSP benefits for Petitioner due to excess 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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner was eligible for MA coverage under PFFP only and acted in accordance with Dept policy when it determined that Pt was ineligible for MSP coverage due to excess income.

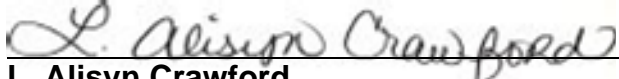
DECISION AND ORDER

Accordingly, the Department's **MA decision is REVERSED and MSP decision is AFFIRMED.**

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 April 25, 2024 MA application to redetermine her eligibility for MA coverage and request asset verification, if necessary;
2. If eligible, provide Petitioner with the most beneficial MA coverage she is eligible to receive from April 1, 2024 ongoing; and
3. Notify Petitioner in writing of its decision.

LC/ml


L. Alisyn Crawford
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

Yaita Turner

Oakland County Southfield District III

25620 W. 8 Mile Rd

Southfield, MI 48033

MDHHS-Oakland-6303-Hearings@michigan.gov

Interested Parties

BSC4

M Schaefer

EQAD

MOAHR

Via First Class Mail:

Petitioner

[REDACTED]
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