



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]

Date Mailed: September 26, 2024
MOAHR Docket No.: 24-007065
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 27, 2024, from Lansing, Michigan. [REDACTED] [REDACTED] the Petitioner appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Melissa Stanley, Hearings Facilitator (HF).

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-34.

ISSUE

Did the Department properly determine Petitioner's eligibility for Medical Assistance (MA) and the Medicare Savings Program (MSP)?

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 receiving MSP benefits under the ALMB category. (Exhibit A, p. 8)
2. On June [REDACTED] 2024, Petitioner submitted an application for MA and other benefits. An interview was also completed. Petitioner's reported assets included a [REDACTED] [REDACTED] [REDACTED] and a [REDACTED] [REDACTED] [REDACTED]. Petitioner's reported income included \$ [REDACTED] for room and board for an adult daughter to stay in the home and \$ [REDACTED] from Retirement, Survivor, Disability Insurance (RSDI) benefits. (Exhibit A, pp. 1 and 7-14)
3. The Department verified the values of the vehicles. (Exhibit A, pp. 29-34)

4. The Department excluded the vehicle with the highest value from the countable assets. The remaining vehicle was valued at \$[REDACTED] (Exhibit A, p. 15)
5. The Department determined that Petitioner's assets exceeded the applicable asset limit of \$2,000.00. (Exhibit A, p. 16)
6. On June [REDACTED] 2024, a Health Care Coverage Determination Notice was issued to Petitioner stating Petitioner was approved for the MSP under the ALMB category effective January 1, 2024 and Petitioner was not eligible for MA due to assets in excess of program limits. (Exhibit A, pp. 22-28)
7. The Department determined that Petitioner's income exceeded the asset limits for all of the MSP categories. The ALMB category has the highest income limit, which is \$1,526.01 to \$1,714.25 for a group size of one. (Exhibit A, pp. 1 and 17)
8. On June [REDACTED] 2024, a Health Care Coverage Determination Notice was issued to Petitioner stating MA was denied due to excess assets and MSP benefits were closing effective July 1, 2024 based on excess income. (Exhibit A, pp. 18-22)
9. On June 25, 2024, Petitioner filed a hearing request contesting the Department's determinations. (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.

The Medicaid program comprise several sub-programs or categories. To receive MA under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. Medicaid eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, MICHild, Flint Water Group and Healthy Michigan Plan is based on Modified Adjusted Gross Income (MAGI) methodology. In general, the terms Group 1 and Group 2 relate to financial eligibility factors. For Group 1, net income (countable income minus allowable income deductions) must be at or below a certain income limit for

eligibility to exist. The income limit, which varies by category, is for nonmedical needs such as food and shelter. Medical expenses are not used when determining eligibility for MAGI-related and SSI-related Group 1 categories. For Group 2, eligibility is possible even when net income exceeds the income limit. This is because incurred medical expenses are used when determining eligibility for Group 2 categories. Group 2 categories are considered a limited benefit as a deductible is possible. BEM 105, January 1, 2024, p. 1.

MA AD CARE is an SSI-related group 1 MA category. This category is available to persons who are aged or disabled (AD). Net income cannot exceed 100% of the poverty level. BEM 163, July 1, 2017, p. 1.

Group 2 aged, blind, and disabled (Group 2 MA) is an SSI related MA category that available to a person who is aged (65 or older), blind or disabled. BEM 105, January 1, 2024, p. 5; BEM 166, April 1, 2027, p. 1.

In general, the terms Group 1 and Group 2 relate to financial eligibility factors. For Group 1, net income (countable income minus allowable income deductions) must be at or below a certain income limit for eligibility to exist. The income limit, which varies by category, is for nonmedical needs such as food and shelter. Medical expenses are not used when determining eligibility for MAGI-related and SSI-related Group 1 categories. For Group 2, eligibility is possible even when net income exceeds the income limit. This is because incurred medical expenses are used when determining eligibility for Group 2 categories. Group 2 categories are considered a limited benefit as a deductible is possible. BEM 105, January 1, 2024, p. 1.

The Department counts the gross benefit amount of Social Security Administration issued Retirement Survivors Disability Insurance (RSDI) benefits as unearned income when determining eligibility. BEM 503, April 1, 2024, p. 30. The Department disregards the annual cost of living increase for RSDI for January, February, and March. BEM 503, April 1, 2024, pp. 30-31.

Room and board income is money an individual receives for providing another individual both food and a place to live. Allowable expenses of producing room and board (or board only) income are the higher of: 50 percent of the income; actual expenses if reported and verified; the maximum monthly FAP benefit for the number of boarders. The policy notes that for SSI-Related MA self-employment deductions are limited to the higher of 25 percent of the total proceeds, or actual expenses if the client chooses to claim and verify the expenses. BEM 504, June 1, 2024, p. 2.

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, June 1, 2024, p. 7. For an SSI-related MA group of one, the asset limit is \$2,000.00. For the MSP, the asset limit is a group of one is \$9,430.00 effective January 1, 2024. BEM 400. p. 8.

There are four categories that make up the MSP: Qualified Medicare Beneficiaries (QMB); Specified Low-Income Medicare Beneficiaries (SLMB); Additional Low-Income Medicare Beneficiaries (ALMB); and Non-Categorically Eligible Michigan Beneficiary (NMB). Income is the major determiner of category. For QMB net income cannot exceed 100% of poverty. For SLMB net income is over 100% of poverty, but not over 120% of poverty. For ALMB net income is over 120% of poverty, but not over 135% of poverty. For NMB, income and assets above allowed ALMB limits but have full coverage Medicaid with Medicare part A/B entitlement. BEM 165, June 1, 2024, p. 1.

RFT 242 addresses the income limits for aged or disabled MA (MA-AD) and the MSP categories. Effective April 1, 2024, for a group size of one the income limit for MA-AD and QMB is \$1,275.00; for SLMB the income limit is \$1,275.01 to \$1,526.00; and for ALMB the income limit is \$1,526.01 to \$1,714.25. The RFT 242 policy notes that these amounts are the applicable percentage of the federal poverty limit plus the \$20.00 disregard for RSDI income. RFT 242, April 1, 2024, p. 1.

In this case, the Department determined that Petitioner was not eligible for Medicaid due to excess assets and was not eligible for the MSP due to income in excess of program limits. (Exhibit A, p. 1).

On June █ 2024, Petitioner submitted an application for MA and other benefits. An interview was also completed. Petitioner's reported assets included a █ █ █ and a █ █ █ (Exhibit A, pp. 1 and 7-14). The Department verified the values of the vehicles. (Exhibit A, pp. 29-34). The Department excluded the vehicle with the highest value from the countable assets. The remaining vehicle was valued at \$█ (Exhibit A, p. 15). Accordingly, the Department determined that Petitioner's assets exceeded the applicable SSI related MA asset limit of \$2,000.00. (Exhibit A, p. 16).

On the June █ 2024, application for MA and during the interview, Petitioner's reported income included \$█ for room and board for an adult daughter to stay in the home and \$█ from RSDI benefits. (Exhibit A, pp. 1 and 7-14). There was no evidence that Petitioner claimed any expenses for producing room and board. Accordingly, Petitioner's combined income from the RSDI benefits and the room and board income exceeded the income limits for the QMB, SLMB, and ALMB categories. The highest income limit is the ALMB category, which is \$1,526.01 to \$1,714.25 for a group size of one. Further, Petitioner could not be found eligible for the MSP under the NMB category because she was not eligible for full coverage MA.

Petitioner noted that her income is less now that the Department is no longer paying the Medicare part B premium. (Petitioner Testimony). However, the above cited BEM 503 policy is clear that the Department counts the gross benefit amount of Social Security Administration issued RSDI benefits as unearned income when determining eligibility.

This Administrative Law Judge has no authority to change or make any exceptions to the applicable regulations and policy, which include income and asset limits. Overall, the

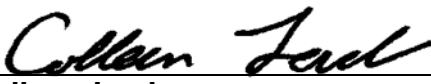
evidence establishes that the Department properly determined Petitioner's eligibility for MA and the MSP based upon the available information.

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's eligibility for MA and the MSP.

DECISION AND ORDER

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

CL/dm



Colleen Lack
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
Elisa Daly
Saginaw County DHHS
**MDHHS-Saginaw-
Hearings@michigan.gov**

SchaeferM

EQADHearings

BSC2HearingDecisions

MOAHR

Via-First Class Mail :

Petitioner

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