



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]
[REDACTED], MI [REDACTED]

Date Mailed: September 5, 2024
MOAHR Docket No.: 24-007998
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 hearing was held via telephone conference on August 28, 2024. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Kimberly Calhoun, supervisor, and Tiffany Carr, specialist.

ISSUE

The issue is whether MDHHS properly determined Petitioner's Medical Assistance (MA) 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. As of April 2024, Petitioner received gross monthly Retirement, Survivors and Disability Insurance (RSDI) of \$1,151.
2. As of April 2024, Petitioner received gross monthly retirement income of \$264.40 from an employer.
3. As of April 2024, Petitioner was over 65 years of age, a Medicare recipient, not a caretaker to minor children, unmarried, and not pregnant.

4. On April 22, 2024, MDHHS sent Petitioner a Verification Checklist (VCL) requesting proof of a checking account balance by May 2, 2024.
5. On June 3, 2024, MDHHS determined Petitioner was ineligible for MSP benefits beginning June 2024 due to an alleged Petitioner failure to provide unspecified information.
6. On June 3, 2024, MDHHS determined Petitioner was eligible for the limited coverage MA category of Plan First beginning July 2024.
7. As of June 3, 2024, Petitioner had not returned to MDHHS proof of a checking account balance.
8. On July 11, 2024, Petitioner requested a hearing to dispute the determinations of MA and MSP benefits.

CONCLUSIONS OF LAW

The 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. MDHHS administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MA policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing, in part, to dispute a determination of MA benefits. Exhibit A, p. 4. MDHHS testified that a Health Care Coverage Determination Notice dated June 3, 2024, stated that Petitioner was eligible only for the limited-coverage MA category of Plan First beginning July 2024.¹

Medicaid is also known as MA. BEM 105 (October 2023) p. 1. The MA program includes several sub-programs or categories. *Id.* To receive MA under a Supplemental Security Income (SSI)-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. *Id.* Medicaid eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, MICHild and Healthy Michigan Plan is based on Modified Adjusted Gross Income (MAGI) methodology.² *Id.*

¹ Plan First is a MAGI-related limited-coverage MA category available to any United States citizen or individual with a qualified immigration status. BEM 124 (July 2023) p. 1. Plan First coverage is a "limited-coverage" because it only covers family planning services such as birth control (see form DCH-2840-MSA).

² Eligibility factors for all MA categories may be found in BEM 105 through BEM 174.

Persons may qualify under more than one MA category. *Id.*, p. 2. Federal law gives them the right to the most beneficial category. *Id.* The most beneficial category is the one that results in eligibility, the least amount of excess income or the lowest cost share. *Id.*

MA categories are also split into categories of Group 1 and Group 2. *Id.*, p. 1. For Group 1, a group's net income must be at or below a certain income level for eligibility. *Id.* Group 2 categories are considered a limited benefit (not limited coverage) because a deductible is possible. *Id.*

MDHHS testified that Petitioner's MA eligibility was being reviewed following an alleged discovery of unreported assets. As of April 2024, the approximate month of discovery, Petitioner was at least 65 years of age, not pregnant, a Medicare recipient, and not a caretaker to minor children. Given the circumstances, Petitioner is ineligible for all MAGI-related categories. As a disabled and/or aged individual, Petitioner is potentially eligible to receive MA under the SSI-related category of Aged/Disability-Care (AD-Care).

At all relevant times, Petitioner was without minor children and did not reside with a spouse. For purposes of AD-Care, Petitioner's group size is one. BEM 211 (October 2023) p. 8.

Documents obtained from a data exchange with the Social Security Administration verified that Petitioner received monthly gross RSDI of \$1,211. Exhibit A, pp. 9-11. Documentation from an employer verified that Petitioner also received \$264 in gross monthly retirement income. Exhibit A, p. 12. Generally, MDHHS counts the gross amount of RSDI in determining Medicaid eligibility.³ BEM 503 (April 2024) p. 30. MDHHS counts retirement income for all programs. *Id.*, p. 29. Adding Petitioner's RSDI and retirement income results in \$1,475 in gross monthly income.

MDHHS gives AD-Care budget credits for employment income, guardianship expenses, and/or conservator expenses. Cost of living adjustments (COLA) are applicable for the benefit months of January through March only. BEM 503 (January 2019) p. 29. Petitioner did not allege any relevant budget expenses or credits.

For SSI-Related MA categories, MDHHS is to apply the deductions allowed in BEM 541 for adults. BEM 163 (July 2017) p. 2. A \$20 disregard is given for unearned income. BEM 541 (July 2019) p. 3. Subtracting the \$20 disregard results in countable income of \$1,455.⁴

³ Exceptions to counting gross RSDI include the following: certain former SSI recipients (e.g., disabled-adult children, 503 individuals, and early widowers), retroactive RSDI benefits, Medicare premium refunds, fee deductions made by qualified organizations acting as payee, and "returned benefits" (see BAM 500). No exceptions were applicable to the present case.

⁴ In determining Petitioner's food eligibility, MDHHS counted \$1,679 in monthly unearned income. Exhibit A, pp. 13-15, During the hearing, MDHHS acknowledged that the income was incorrectly calculated and

Net income for AD-Care cannot exceed 100% of the federal poverty level BEM 163 (July 2017) p. 2. In 2024, the annual federal poverty level for a 1-person group residing in Michigan is \$15,060.⁵ Dividing the annual FPL by 12 results in a monthly income limit of \$1,255. The same income limit is found in policy.⁶ RFT 242 (April 2023) p. 1. Petitioner's countable monthly income of \$1,455 exceeds the AD-Care income limit. Presumably, Petitioner's group's income is within the income guidelines to receive the limited coverage MA category of Plan First.⁷ Given the evidence, MDHHS properly determined Petitioner to be ineligible for MA under AD-Care or any other Group 1 MA category.

Petitioner also requested a hearing to dispute a termination of MSP benefits. Exhibit A, p. 4. A Health Care Coverage Determination Notice dated June 3, 2024, stated that Petitioner was ineligible for MSP benefits beginning June 2024 due to an alleged failure by Petitioner to provide unspecified information. Exhibit A, p. 6. MDHHS testimony clarified that Petitioner failed to verify a checking account balance.

MSP is an SSI-Related MA category. BEM 165 (October 2022) p. 1. For MSP eligibility, countable assets may not exceed the asset limits of BEM 400.⁸ *Id.*, p. 8. Assets may include cash. *Id.*, p. 2. MDHHS will utilize an asset verification program to electronically detect unreported assets belonging to applicants and beneficiaries. *Id.*

For all programs, MDHHS is to inform the client what verification is required, how to obtain it, and the due date. BAM 130 (January 2023) p. 2. MDHHS is to use the DHS-3503, Verification Checklist (VCL), to request verification. *Id.* For MA, MDHHS is to allow the client 10 calendar days to provide the verification that is requested. *Id.*, p. 7. MDHHS may send a negative action notice when:

- The client indicates refusal to provide a verification, or
- The time period given has elapsed. *Id.*

MDHHS testified that it requested proof of Petitioner's assets following an asset detection report. MDHHS clarified that the report indicated Petitioner may have a previously unreported checking account. In response, MDHHS sent Petitioner a VCL on April 22, 2024, requesting proof of Petitioner's allegedly unreported checking account. Exhibit A, p. 7. MDHHS contended Petitioner failed to submit proof of a checking account by the VCL due date of May 2, 2024.

Petitioner testified he twice returned to MDHHS requested documents. However, when Petitioner was asked what documents he submitted, he could not say. Petitioner's failure to know what documents he submitted undercut Petitioner's credibility.

promised to correct the income. Petitioner is free to request a hearing to dispute FAP eligibility if MDHHS reneges.

⁵ <https://www.healthcare.gov/glossary/federal-poverty-level-fpl/>

⁶ MDHHS policy lists an income limit of \$1,275 was noting the \$20 disregard is factored into the limit.

⁷ The Plan First income limit is 195% of the FPL. BEM 124 (July 2023) p. 2.

⁸ The asset limit for a 1-person MSP benefit group in 2024 is \$9,430. BEM 400 (April 2024) p. 8.

MDHHS provided documentation of Petitioner's electronic case file (ECF) which listed a summary of all documents submitted by Petitioner. Exhibit A, p. 8. Notably, a submission of checking account documentation was not among the list of submitted items.

Given the evidence, MDHHS established that it properly requested proof of Petitioner's assets, and that Petitioner failed to timely submit proof. Accordingly, MDHHS properly terminated Petitioner's MSP eligibility. Petitioner should be aware that MSP eligibility can be regained by verifying assets.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly determined Petitioner to be eligible for the limited coverage MA category of Plan First beginning July 2024. It is also found that MDHHS properly terminated Petitioner's MSP eligibility beginning June 2024. The actions taken by MDHHS are **AFFIRMED**.

CG/nr



Christian Gardocki
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

Denise Key-McCoggle
Wayne-Greydale-DHHS
27260 Plymouth Rd
Redford, MI 48239

MDHHS-Wayne-15-Greydale-Hearings@michigan.gov

Interested Parties

BSC4
M. Schaefer
EQAD
MOAHR

Via-First Class Mail :

Petitioner

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