



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

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Date Mailed: September 25, 2024  
MOAHR Docket No.: 24-009499  
Agency No.: ██████████  
Petitioner: ██████████

**ADMINISTRATIVE LAW JUDGE: Danielle R. Harkness**

### **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 September 18, 2024. ██████████ the Petitioner, appeared on his own behalf. ██████████ Petitioner's wife, appeared as a witness for Petitioner. The Department of Health and Human Services (Department) was represented by Kimberly Reed, Assistance Payments Supervisor (APS).

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-27.

### **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. On ██████████ 2024, Petitioner's wife submitted a letter to the Department reporting that Petitioner's wife's son had taken over land contract payments for land that Petitioner and Petitioner's wife still owned in ██████████ Michigan.
2. Petitioner had previously reported \$██████████ in a checking and savings account.
3. On ██████████ 2024, Petitioner also submitted a comparative market analysis for the ██████████ Michigan property wherein it was determined that comparable land in the

surrounding area would be sold at \$[REDACTED] and Petitioner submitted no evidence of a lien on the property at the time relevant to this matter.

4. On February 26, 2024, a Health Care Coverage Determination Notice was issued denying Petitioner and Petitioner's wife MSP coverage due to excess assets and approving them for limited coverage MA through the Plan First program effective April 1, 2024.
5. Prior to the February 26, 2024, determination, Petitioner and Petitioner's wife had full-coverage MA through the AD Care program and MSP coverage.
6. On July 22, 2024, a Health Care Coverage Determination Notice was issued to Petitioner approving Petitioner and Petitioner's wife for MA through the Plan First program effective April 1, 2024.
7. On August 13, 2024, a Health Care Coverage Determination Notice was issued to Petitioner stating MSP was denied effective June 1, 2024, due to assets in excess of program limits.
8. On August 5, 2024, Petitioner filed a hearing request contesting the Department's determination.

### **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 Department must consider assets of each person in the asset group in determining eligibility for MA. An asset is countable if it is available to the client. Available means that someone in the asset group has the legal right to use or dispose of the asset. Countable assets include real property and cannot exceed the applicable asset limit. However, a homestead or where the client lives is excluded. The Department may exclude one homestead, the client's principal place of residence, for an asset group. Additionally, money in checking and savings accounts may be considered countable cash assets if available to the client. BEM 400.

The value of real property is the equity value, and the equity value is the fair market value minus the amount legally owed in a written lien provision. The Department may use the following to determine the fair market value of real property:

- Deed, mortgage, purchase agreement or contract.
- State Equalized Value (SEV) on current property tax records multiplied by two.
- State of real estate agent or financial institution.
- Attorney or court records.
- County records.

*Id.*

### MSP

The asset limit for the initial eligibility determination is set to the current asset limit for a group of 1 in the MSP listed in BEM 400. Once eligibility for Freedom To Work has been established the countable asset limit increases to \$75,000 for ongoing Medicaid. IRS recognized retirement accounts (including IRAs and 401(k)s) may be of unlimited value. These retirement accounts may continue to be excluded as assets from future MA eligibility determinations; see BEM 174, FTW. For MSP purposes (BEM 165) the asset limit for an asset group of 2 is \$14,130.00, effective January 1, 2024. BEM 400.

Here, Petitioner is potentially eligible for MSP, which has a \$14,130.00 asset limit for a group of 2. On February 20, 2024, Petitioner reported that Petitioner and Petitioner's wife still owned land in █████ Michigan. Petitioner also submitted a Comparative Market Analysis showing similar properties in the same area that had an average sale value of \$██████, and no information was submitted by Petitioner showing a lien on the property at the time relevant to this matter. Therefore, the Department properly determined that Petitioner exceeded the asset limit for MSP coverage.

### PLAN FIRST

Plan First provides limited-coverage MA. Coverage through Plan First is limited because it only covers family planning services. In order for a client to be eligible for limited-coverage MA through Plan First, the client's group's net income must not exceed 195% of the FPL. BEM 124 (July 1, 2023), pp. 1-2. The FPL for a household size of 2 in 2024 is \$20,440.00. The household size is determined based on tax filer and tax dependent rules. BEM 211 (July 1, 2019), p. 1. For tax filers, the household size includes the tax filer, the tax filer's spouse, and all dependents claimed. *Id.* at 1-2. Here, Petitioner's household size is 2 because Petitioner is married, and Petitioner does not have any tax dependents.

Income eligibility is based on modified adjusted gross income (MAGI) for Plan First. *Id.* MAGI is defined as adjusted gross income increased by (1) excluded foreign income, (2) tax exempt interest, and (3) the amount of social security benefits excluded from gross income. 26 USC 36B(d)(2)(B). Adjusted gross income is that which is commonly

used for Federal income taxes, and it is defined as gross income minus deductions for business expenses, losses on the sale or exchange of property, retirement contributions, and others. 26 USC 62.

In this case, Petitioner and Petitioner's spouse's annual income is \$ [REDACTED]. As previously discussed, the FPL for a household of 2 in 2024 is \$20,440.00, so 195% of the FPL is \$39,858.00, which is equal to \$3,321.50 per month. Petitioner's income was less than 195% of the FPL, so the Department properly found Petitioner and Petitioner's spouse eligible for limited-coverage MA through Plan First.

Asset eligibility is required for SSI-related MA categories. 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, July 1, 2023, pp. 6-7. For the SSI related MA categories for a group of two the asset limit is \$3,000.00. BEM 400. pp. 6-8.

Based on the value of Petitioner's property in [REDACTED] Michigan alone, the Department properly determined that Petitioner's assets exceeded the applicable \$3,000.00 asset limit for the SSI-related MA categories and was only eligible for MA through Plan First.

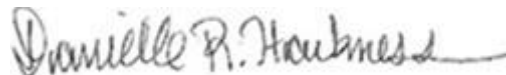
Petitioner presented no evidence to dispute the Department's determination. Here, the evidence establishes that the Department properly determined Petitioner's eligibility for MA and the MSP.

### **DECISION AND ORDER**

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 properly determined Petitioner's eligibility for MA and the MSP.

IT IS ORDERED the Department's decision is **AFFIRMED**.

DH/pt



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**Danielle R. Harkness**  
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**  
Shanna Ward  
Osceola-Mecosta County DHHS  
800 Watertower  
Big Rapids, MI 49307  
**MDHHS-Mecosta-Osceola-Hearings@michigan.gov**

**Interested Parties**

BSC3  
M. Schaefer  
EQAD  
MOAHR

**Via-First Class Mail:**

**Petitioner**

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**Authorized Hearing Rep.**

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