



GRETCHEN WHITMER
GOVERNOR

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

MARLON BROWN
DIRECTOR

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Date Mailed: December 16, 2024
MOAHR Docket No.: 24-011905
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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 November 21, 2024, from Detroit, Michigan. Petitioner appeared for the hearing and represented himself. The Department of Health and Human Services (Department) was represented by Avery Smith, Assistance Payments Supervisor.

ISSUE

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

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 or around ██████████ 2024, Petitioner submitted an application for MA benefits and MSP benefits.
2. On or around October 1, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice advising him that he was approved for limited coverage Plan First MA benefits from September 1, 2024, ongoing. (Exhibit A, pp. 8-10)
3. On or around October 5, 2024, the Department completed an asset detection report which identified a joint checking account associated with Petitioner's name from Bank of America with a balance in August 2024 of \$13,138.30. (Exhibit A, p.7)
4. On October 14, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice (Notice) advising him that effective August 1, 2024, he was

ineligible for Medicare Savings Program (MSP) benefits because he does not meet basic criteria. The Notice also informed Petitioner that the asset limit for Medicaid is \$2,000 and the Department's records show a Bank of America checking account ending in [REDACTED] that had a balance for August 2024 of \$13,138.30, which is over the asset limit. The Notice also indicated that Plan First is a Medicaid program with no asset requirement. (Exhibit A, pp. 5-6)

5. There was no evidence that the Department sent Petitioner a verification checklist instructing him to submit proof of his assets prior to issuing the October 14, 2024, Notice.
6. On or around October 21, 2024, Petitioner requested a hearing disputing the Department's actions with respect to the MA program. Petitioner included the October 14, 2024, Notice with his request for hearing. (Exhibit A, pp. 3-6)

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 disputed the Department's actions with respect to the MA program and the MSP.

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 Plan First Medicaid (PF-MA) coverage. 42 CFR 435.911; 42 CFR 435.100 to 435.172; BEM 105 (October 2023), p. 1; BEM 137 (June 2020), p. 1; BEM 124 (July 2023), p. 1.

MSP are SSI-related MA categories. There are four MSP categories: Qualified Medicare Beneficiaries (QMB); Specified Low-Income Medicare Beneficiaries (SLMB); Additional Low-Income Beneficiaries (ALMB); and Non-Categorically Eligible Michigan Beneficiaries (NMB). BEM 165 (July 2024), p. 1. QMB is a full coverage MSP that pays Medicare

premiums (Medicare Part B premiums and Part A premiums for those few people who have them), Medicare coinsurances, and Medicare deductibles. SLMB pays Medicare Part B premiums and ALMB pays Medicare Part B premiums provided funding is available. NMB 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. BEM 165, pp. 1-2.

Asset eligibility is required for MA coverage under SSI-related MA categories. BEM 400 (April 2024), p. 1-8; BEM 105, p. 1. The Department will consider the value of cash assets in determining a client's asset eligibility for MA. Cash assets include money/currency, uncashed checks, drafts, and warrants, as well as, money in checking, savings, money market, and/or certificate of deposit (CD or time deposit) accounts. BEM 400, pp. 14-18. An asset must be available to be countable. Available means that someone in the asset group has the legal right to use or dispose of the asset. The Department is to assume that an asset is available unless evidence shows it is not available. BEM 400, p. 10. Asset eligibility will exist 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, p. 6. The asset limit for Petitioner's MA asset group size of one is \$2,000. BEM 400, pp. 7-8; BEM 211 (October 2023), pp. 1-9.

On or around [REDACTED] 2024, Petitioner submitted an application requesting MA and MSP benefits. The Department representative testified that Petitioner's application was processed and Petitioner was approved for limited coverage MA benefits under the Plan First category that does not have an asset test. Petitioner was notified of the approval through the issuance of the October 1, 2024, Health Care Coverage Determination Notice. The Department representative testified that it received information from an asset detection report that Petitioner was the joint owner of a checking account with Bank of America that had a balance in August 2024 of \$13,138.30. The Department representative testified that on October 14, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice (Notice) advising him that effective August 1, 2024, he was ineligible for Medicare Savings Program (MSP) benefits because he does not meet basic criteria. The Notice also informed Petitioner that the asset limit for Medicaid is \$2,000 and the Department's records show a Bank of America checking account ending in [REDACTED] that had a balance for August 2024 of \$13,138.30, which is over the asset limit. The Notice also indicated that Plan first is a Medicaid program with no asset requirement. (Exhibit A, pp. 5-6). It was established that while a verification checklist was issued to Petitioner on August 23, 2024, it did not instruct Petitioner to submit proof of assets. There was also no evidence that the Department considered the lowest balance in the account for the application month. Thus, because the Department failed to establish that it properly requested verification of assets and because it did not consider the lowest balance, the Department did not properly deny Petitioner's MA application for excess assets.

Additionally, there was no supporting evidence presented to establish that the Department properly determined that Petitioner was ineligible for MSP benefits. The October 14, 2024, Notice indicates that Petitioner does not meet basic criteria for the

MSP; however, the Department did not present any evidence in support of this determination.

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 did not act in accordance with Department policy when it determined Petitioner's MA and MSP eligibility.


DECISION AND ORDER

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

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. Register and process Petitioner's [REDACTED] 2024, MA/MSP application to determine his MA and MSP eligibility under the most beneficial category for August 1, 2024, ongoing;
2. If eligible, provide Petitioner with MA and MSP coverage under the most beneficial category, that he was entitled to receive but did not from August 1, 2024, ongoing; and
3. Notify Petitioner in writing of its decision.

ZB/ml



Zainab A. Baydoun
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

Tracey Jones
Oakland County Southfield District III
25620 W. 8 Mile Rd
Southfield, MI 48033
MDHHS-Oakland-6303-Hearings@michigan.gov

Interested Parties

BSC4
L Karadsheh
MOAHR

Via First Class Mail:

Petitioner

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