



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LANSING

ORLENE HAWKS  
DIRECTOR

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Date Mailed: January 29, 2019  
MAHS Docket No.: 18-011808  
Agency No.: ██████████  
Petitioner: ██████████

**ADMINISTRATIVE LAW JUDGE:** Kevin Scully

**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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. A hearing scheduled for December 13, 2018, was adjourned on December 6, 2018. After due notice, an in-person hearing was held on January 10, 2019, from Hart, Michigan. Petitioner was represented by her husband, ██████████. The Department was represented by Pamela Wells.

**ISSUE**

Did the Department of Health and Human Services (Department) properly deny Medical Assistance (MA) 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 ██████████ 2018, the Department received an application for Medical Assistance (MA) for Petitioner and her husband.
2. Department records indicate that Petitioner and her husband have a 2003 truck, a 2018 truck, a 2014 truck, a 22-foot boat, a 17-foot boat, and a 2004 car registered in their names with the Michigan Department of State. Exhibit A, p 5.
3. Petitioner and her husband possess vehicles with a fair-market value exceeding \$3,000. Exhibit A, p 5.

4. On October 26, 2018, the Department notified Petitioner that her husband was not eligible for Medical Assistance (MA) effective September 1, 2018. Exhibit A, pp 3-4.
5. On October 31, 2018, the Department received Petitioner's request for a hearing protesting the denial of Medical Assistance (MA) benefits.

### **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.

Assets means cash, any other personal property and real property. Real property is land and objects affixed to the land such as buildings, trees and fences. Condominiums are real property. Personal property is any item subject to ownership that is not real property. Countable assets cannot exceed the applicable asset limit. An asset is countable if it meets the availability tests and is not excluded. Available means that someone in the asset group has the legal right to use or dispose of the asset. Department of Human Services Bridges Eligibility Manual (BEM) 400 (January 1, 2018), pp 1-7.

Persons may qualify under more than one MA category. Federal law gives them the right to the most beneficial category. The most beneficial category is the one that results in eligibility or the least amount of excess income. Department of Health and Human Services Bridges Eligibility Manual (BEM) 105 (April 1, 2017), p 2.

The Healthy Michigan Plan (HMP) is a category of Medicaid that has no asset limit and is available for individuals who are 19-64 years of age and are not eligible for Medicare. Department of Health and Human Services Bridges Eligibility Manual (BEM) 137 (April 1, 2018), p 1.

Petitioner's husband is not eligible for HMP benefits because he does not fit the age criteria for that program and he is eligible for Medicare. Therefore, the Department considered his eligibility for other categories of MA.

However, these other categories of MA that Petitioner's husband could potentially be eligible for have an asset limit of \$3,000 for a married person. Department of Health and Human Services Bridges Eligibility Manual (BEM) 400 (October 1, 2018), p 8.

The Department made a collateral contact and discovered several vehicles and boats registered with the Michigan Department of State. The Department claims that the fair-market value of these vehicles exceeds \$3,000.

Petitioner's husband protests the Department's determination of the countable value of vehicles owned by himself and his wife. Petitioner's husband also claims asset exemptions not granted by the Department in this case. Department policy allows exemptions including the following:

When determining countable assets, the Department will exclude the value of one motorized vehicle owned by the asset group. If the asset group owns multiple motorized vehicles, the Department will use the employment asset exclusions first, then from any remaining motorized vehicles, exclude the one with the highest value. BEM 400, p 40.

Petitioner's husband testified that ownership of the 22-foot boat and the 2003 truck the Department had determined to be countable assets has been transferred to a person outside the MA benefits group and therefore should not be countable. Petitioner's husband testified that the 2004 car had been transferred to another person. Petitioner's husband did not dispute owning the 17-foot boat but disputed the fair market value of that boat.

Petitioner's husband denied owning a 2014 truck. The Department's representative testified that Department records contain a typographical error, and that the records should indicate a 2012 truck. Petitioner's husband provided documentation showing a fair market value of a 2012 truck of \$15,230, which is considerably less than the value determined by the Department. Petitioner's husband testified that the 2012 truck is an income producing asset and should be excluded.

Petitioner's husband also disputed the Department's determination of the value of the 2018 truck, claiming to owe more on a vehicle loan financing the purchase of this vehicle than the truck's fair market value.

The value of a vehicle is its equity value. Equity value is the fair market value minus the amount legally owed in a written lien provision. Liens must be on record with the Secretary of State or other appropriate agency. BEM 400, p 39.

Petitioner's husband failed to establish an amount legally owed on the 2018 truck as required by BEM 400 to reduce the countable value of that vehicle. Therefore, the countable value of this truck is its fair market value. Petitioner's husband also failed to establish that his wife's care had been transferred to a person outside the benefit group.

Viewing the evidence in a light most beneficial to Petitioner, and assuming that the 2012 truck is excludable as an income producing property, and assuming that the 2018 truck can be excluded as the group's one vehicle exclusion, the record evidence supports a finding that Petitioner and her husband own a 2004 car and a 17-foot boat with a combined fair market value exceeding \$3,000. Petitioner's husband is not eligible for MA benefits based on the countable value of these two vehicles by themselves without regard to any other countable assets possessed in the household.

Petitioner, [REDACTED], is potentially eligible for HMP benefits, which has no asset limit. The Department's representative testified that Petitioner was denied HMP benefits based on income reported by her and her husband to the IRS.

However, this denial of HMP benefits was made after October 31, 2018, when the Department received Petitioner's request for a hearing. Therefore, as of October 31, 2018, there had been no denial of HMP benefits entitling Petitioner to a hearing as defined by BAM 600 as of that date. Therefore, Petitioner's request for a hearing is dismissed for lack of jurisdiction with respect to Petitioner's eligibility for MA.

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 denied the application for Medical Assistance (MA) for Petitioner's husband. Petitioner's request for a hearing is dismissed with respect to her eligibility for Medical Assistance (MA) under the Healthy Michigan Plan (HMP).

### **DECISION AND ORDER**

Accordingly, the Department's decision is **AFFIRMED** with respect to the denial of Medical Assistance (MA) for her husband.

Petitioner's request for a hearing is **DISMISSED** with respect to her eligibility for Medical Assistance (MA) for lack of jurisdiction as of October 31, 2018.

KS/dh

  
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**Kevin Scully**  
Administrative Law Judge  
for Robert Gordon, Director  
Department of Health and Human Services

**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 Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS 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. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings  
Reconsideration/Rehearing Request  
P.O. Box 30639  
Lansing, Michigan 48909-8139

**DHHS**

Julian Castillo  
4081 W Polk Rd  
Hart, MI 49420

Oceana County, DHHS

BSC3 via electronic mail

EQAD via electronic mail

D. Smith via electronic mail

**Authorized Hearing Rep.**

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**Petitioner**

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