



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

ORLENE HAWKS  
DIRECTOR

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

Date Mailed: May 13, 2019  
MOAHR Docket No.: 19-002824  
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 telephone hearing was held on May 1, 2019, from Detroit, Michigan. Petitioner did not appear. [REDACTED] Petitioner's son, testified and participated as Petitioner's authorized hearing representative (AHR). The Michigan Department of Health and Human Services (MDHHS) was represented by Antoinette Feldpausch, specialist.

### **ISSUES**

The first issue is whether there is administrative hearing jurisdiction for Petitioner's dispute of a MDHHS action that was corrected before the hearing.

The second issue is whether MDHHS properly denied Petitioner's application for State Disability Assistance (SDA).

### **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 January 28, 2019, Petitioner's AHR submitted to MDHHS an application requesting Medical Assistance (MA) benefits and cash assistance for Petitioner. Petitioner was reported to be over 65 years, not pregnant, not a caretaker of minor children, and disabled. A combined income of \$ [REDACTED] from Retirement, Survivors and Disability Insurance (RSDI) and retirement benefits was reported for Petitioner. Exhibit A, pp. 4-10.

2. On February 25, 2019, MDHHS denied Petitioner's MA application due to a failure to submit complete documentation of a trust.
3. On an unspecified date, MDHHS denied Petitioner's application for SDA benefits.
4. On March 11, 2019, Petitioner's AHR requested a hearing to dispute the denials of cash and MA eligibility. Exhibit A, pp. 57-58.
5. On March 22, 2019, MDHHS mailed Petitioner a Benefit Notice stating that Petitioner was denied SDA due to excess income.
6. On March 22, 2019, MDHHS reregistered Petitioner's application for MA benefits.

### **CONCLUSIONS OF LAW**

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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

On March 11, 2019, Petitioner's AHR requested a hearing to dispute a denial of Petitioner's application requesting MA benefits. MDHHS presented a Health Care Coverage Determination Notice dated February 25, 2019, stating that Petitioner's application was denied due to a failure to submit complete documentation of a trust. Exhibit A, pp. 49-53. The MDHHS case summary acknowledged that the denial reason was improper and that Petitioner's application was reinstated on March 22, 2019.

A hearing can be granted for actions affecting benefits or services. Administrative hearing jurisdiction is limited to the following:

- Denial of an application or supplemental payment.
- Reduction in benefits or services.
- Suspension or termination of benefits or services.
- Restrictions under which benefits or services are provided.
- Delays in action beyond the standards of promptness.
- A denial of expedited service or the current level of benefits (FAP and CDC only)

BAM 600 (October 2018), p. 5.

As it happened, MDHHS later again denied Petitioner's application. On April 5, 2019, MDHHS mailed Petitioner a denial notice; this notice stated that Petitioner's application was denied due to excess assets. Exhibit B, pp. 1-4. Hearing jurisdiction is limited to disputes of actions taken by MDHHS before a hearing request. There can be no hearing

jurisdiction for actions taken by MDHHS after the hearing request. To establish hearing jurisdiction for the actions taken by MDHHS on April 5, 2019, Petitioner's AHR would have to timely request another hearing.

The reinstatement of Petitioner's MA application on March 22, 2019, favorably resolved Petitioner's hearing request. Thus, there is no administrative hearing jurisdiction to determine whether MDHHS properly denied Petitioner's MA application due to a failure to submit trust documents. Petitioner's hearing request is resolved and will be dismissed.

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Health and Human Services (formerly known as the Department of Human Services) administers the SDA program pursuant to 42 CFR 435, MCL 400.10 and Mich Admin Code, R 400.3151-.3180. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner's AHR also requested a hearing to dispute a denial of cash benefits for Petitioner. MDHHS presented a Benefit Notice dated March 22, 2019, stating that Petitioner's application was denied due to excess income.<sup>1</sup> Exhibit A, pp. 61-62.

SDA provides financial assistance to disabled adults who are not eligible for Family Independence Program (FIP) benefits. BEM 100 (July 2015), p. 5. The goal of the SDA program is to provide financial assistance to meet a disabled person's basic personal and shelter needs. *Id.*

The certified group must be in financial need to receive benefits. BEM 515 (October 2015), p. 1. Need is determined to exist when budgetable income is less than the payment standard established by the department. *Id.*

Petitioner's AHR testified Petitioner's monthly income exceeded \$2,000. Petitioner's application reported a slightly lower amount of income for Petitioner (\$ [REDACTED]). Both Petitioner's AHR and Petitioner's application stated that Petitioner's income was from RSDI and pension.

For SDA benefits, MDHHS counts the gross amount of current RSDI as unearned income. BEM 503 (January 2019), pp. 28-29. The same is true for retirement benefits. *Id.*, p. 28. For SDA budgetary purposes, all of Petitioner's RSDI and pension income is countable.

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<sup>1</sup> MDHHS testimony acknowledged that Petitioner's application for cash was denied before Petitioner requested a hearing. MDHHS testimony indicated that written notice was sent after Petitioner's AHR submitted a hearing request only to correct the absence of notice. Thus, there is administrative hearing jurisdiction for the issue of cash assistance because Petitioner's AHR is disputing an action taken by MDHHS from before the date of hearing request.

The SDA payment standard for Petitioner's group size is \$200. RFT 225 (December 2013), p. 1. Whether Petitioner's income is \$[REDACTED] or over \$2,000, Petitioner's countable income exceeds the payment standard. Accordingly, MDHHS properly denied Petitioner's SDA application due to excess income.

### **DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS resolved Petitioner's hearing request dated March 11, 2019, by reinstating and processing Petitioner's MA application. Concerning MA benefits, Petitioner's hearing request is **DISMISSED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly denied Petitioner's application for SDA benefits. Concerning SDA benefits, the actions taken by MDHHS are **AFFIRMED**.

CG/jaf



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**Christian Gardocki**  
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 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

**DHHS**

Erin Bancroft  
MDHHS-Clinton-Hearings

**Authorized Hearing Rep.**

[REDACTED]  
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**Petitioner**

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