



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: August 23, 2019
MOAHR Docket No.: 19-007336
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: John Markey

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 August 21, 2019 from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Michelle Vanwert, Eligibility Specialist, and Brenda Bolek, Family Independence Manager. During the hearing, a 23-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-23.

ISSUE

Did the Department properly determine that Petitioner was ineligible for Medicaid (MA) benefits, effective August 1, 2019?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. At all times relevant to the instant matter, Petitioner was a disabled individual receiving Medicare benefits.
2. As part of the 2019 redetermination process, Petitioner disclosed to the Department that, in addition to her residence that she owned with her husband, they owned property up north. The property is held in a trust Petitioner and her husband created and is worth more than \$3,000.

3. On June 20, 2019, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that effective August 1, 2019, Petitioner was ineligible for MA benefits from the Department. The decision was based on the Department's determination that the value of Petitioner's countable assets exceeded the limit for program eligibility. Exhibit A, pp. 19-23.
4. On [REDACTED] 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's decision.

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 was at all relevant times a disabled individual receiving Medicare benefits. Petitioner was an ongoing recipient of MA benefits when the Department initiated the redetermination process. As part of that process, Petitioner was interviewed and asked about her assets. During that interview, Petitioner disclosed to the Department that her and her husband owned land up north that was significantly more valuable than \$3,000 in addition to owning their residence. On June 20, 2019, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that her MA case was closing, effective August 1, 2019. The basis for that determination was the Department's finding that Petitioner's countable assets exceeded the asset limit for eligibility for the particular programs Petitioner might otherwise qualify. Petitioner timely requested a hearing objecting to the Department's action.

Petitioner is not eligible for coverage under the full-coverage Healthy Michigan Plan, which does not have an asset test, as Petitioner is enrolled in Medicare. BEM 137 (January 2019), p. 1. As a disabled individual enrolled in Medicare, Petitioner is potentially eligible to receive MA benefits through AD-Care or G2S programs, both of which are SSI-related MA programs. BEM 163 (July 2017), p. 1; BEM 166 (April 2017), p.1. To be eligible for SSI-related MA, the value of an individual's countable assets must be less than or equal to the asset limit at least one day during the month tested, which is \$3,000 for the programs relevant to this matter. BEM 400, pp. 7-8. An asset is countable if it meets the availability tests and is not excluded. BEM 400, p. 2. In

general, an asset is considered available to an individual if that individual has the legal right to use or dispose of the asset. BEM 400, p. 10.

Thus, in order for Petitioner to be eligible for the SSI-related programs in question, Petitioner's countable assets must be at or below \$3,000 on any day during the month being tested. The information relied upon by the Department included Petitioner's statements made during an interview that she and her husband owned property worth substantially more than \$3,000 in addition to their home.

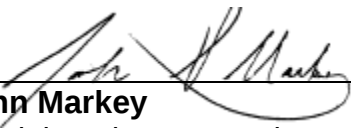
The Department closed Petitioner's MA benefits case, effective August 1, 2019, because the value of her countable assets in the up north property alone exceeded the asset limit for the relevant SSI-related MA programs. The Department's decision was correct and made in accordance with Department policy and law. At no time was the value of Petitioner's countable assets at or below the threshold for program eligibility. As Petitioner did not satisfy the asset test, the Department properly closed Petitioner's MA benefit case, effective August 1, 2019.

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 found Petitioner ineligible for MA benefits, effective August 1, 2019.

DECISION AND ORDER

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

JM/cg



John Markey
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

Via Email:

MDHHS-Livingston-Hearings
D. Smith
EQAD
BSC4- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

[REDACTED]
[REDACTED]
[REDACTED]