



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: September 5, 2019
MOAHR Docket No.: 19-008256
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 29, 2019 from Detroit, Michigan. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by April Nemec, Hearings Facilitator, and Tamara Jackson, Hearings Facilitator. During the hearing, a 44-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-44.

ISSUE

Did the Department properly close Petitioner's SSI-related Medicaid (MA) case, effective July 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. Petitioner was an ongoing recipient of SSI-related MA from the Department.
2. On May 4, 2019, the Department issued to Petitioner a Redetermination form to gather relevant information regarding Petitioner's ongoing eligibility for benefits. Petitioner was required to fill out the form and return it to the Department by June 3, 2019. Exhibit A, pp. 10-17.
3. On May 20, 2019, Petitioner returned the completed Redetermination to the Department. Petitioner indicated on the form that he owned two vehicles. One

was a 1995 Lincoln Town Car with 183,000 miles on it. The other was a 1995 Dodge Ram that Petitioner indicated did not run. Exhibit A, pp. 10-17.

4. The Department did not properly register receipt of Petitioner's timely submitted Redetermination.
5. In mid-June 2019, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that his MA case was closing, effective July 1, 2019, as a result of the Department's erroneous conclusion that Petitioner did not return the completed Redetermination form. Shortly after issuing that document, the Department recognized the error and processed Petitioner's Redetermination.
6. On June 26, 2019, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that his MA case was closing, effective July 1, 2019, as a result of the Department's finding that the value of Petitioner's countable assets exceeded the limit for program eligibility. That conclusion was based on the Department's analysis of the value of the two vehicles described above. The Department used NADA values for each and found that the Town Car was valued at \$2,700 and the Ram at \$2,300. Exhibit A, pp. 24-30.
7. The Kelley Blue Book trade-in value of Petitioner's Town Car ranges from \$150 to \$468.
8. The Kelley Blue Book trade-in value of Petitioner's Ram ranges from \$150 to \$746.
9. On [REDACTED], 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's closure of his MA benefits case.

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 an ongoing recipient of MA benefits from the Department under the SSI-related G2S program. On May 4, 2019, the Department issued to

Petitioner a Redetermination form to gather relevant information regarding Petitioner's ongoing eligibility for benefits. Petitioner was required to fill out the form and return it to the Department by June 3, 2019. On May 20, 2019, the Department received Petitioner's completed Redetermination form. The Department did not properly register receipt of Petitioner's completed Redetermination, which resulted in the Department's issuance of a mid-June 2019 Health Care Coverage Determination Notice informing Petitioner that his MA case was closing, effective July 1, 2019, as a result of Petitioner's failure to return the Redetermination. Once the Department was made aware of its erroneous conclusion, it processed Petitioner's timely submitted Redetermination form. Upon processing Petitioner's Redetermination, the Department determined that the value of Petitioner's assets exceeded the limit for program eligibility. That determination was based solely on an evaluation of the value of Petitioner's two vehicles, a 1995 Dodge Ram and a 1995 Lincoln Town Car. On June 26, 2019, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that his MA case was still closing, effective July 1, 2019, this time for excessive assets. Petitioner timely requested a hearing objecting to that finding and asserting that the Department's valuation of his vehicles was wildly divergent from their actual value.

As a disabled individual, Petitioner is potentially eligible to receive MA benefits through the 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 \$2,000 for the programs relevant to this matter. BEM 400 (July 2019), 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.

Vehicles are countable assets. In determining the value of an individual's vehicles, the Department uses **the lower of** the Kelley Blue Book fair condition value or NADA Book wholesale value. BEM 400, p. 66. The Department then excludes from countability an individual's most valuable vehicle. BEM 400, p. 41. The value of any remaining vehicles are then added together with an individual's other countable assets to determine asset eligibility for the program.

The Department determined that Petitioner was asset ineligible after finding that both of Petitioner's vehicles were worth more than \$2,000 according to the NADA Book wholesale values. Thus, after excluding the most valuable vehicle, the countable value of the remaining vehicle was higher than the limit for program eligibility.

However, the Department is required to use the lowest of either the NADA Book wholesale value or the Kelley Blue Book fair condition value. The Kelley Blue Book fair condition value on each of the two vehicles was substantially less than \$1,000 each. Properly using those valuations results in a finding that Petitioner's vehicles did not come anywhere close to putting Petitioner over the asset limit for program eligibility. Thus, the Department's failure to follow policy in determining the value of Petitioner's

vehicles resulted in an incorrect determination regarding Petitioner's eligibility for MA benefits.

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 closed Petitioner's MA case, effective July 1, 2019.

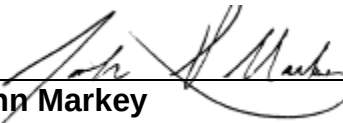
DECISION AND ORDER

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. Reinstate Petitioner's MA benefits case;
2. Redetermine Petitioner's eligibility for MA benefits ongoing, ensuring that policy is followed regarding asset valuations;
3. If any eligibility-related factors remain unclear, inconsistent, contradictory, or incomplete, follow Department policy in requesting and obtaining verifications;
4. If Petitioner is eligible for additional benefits that were not provided, ensure that a supplement is issued; and
5. Notify Petitioner in writing of its decisions.

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-Lapeer-Hearings
MDHHS-Genesee Union St. Hearings
D. Smith
EQAD
BSC2- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

[REDACTED]
[REDACTED]
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