



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

[REDACTED]

Date Mailed: January 15, 2020  
MOAHR Docket No.: 19-012429  
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 December 18, 2019, from Detroit, Michigan. Petitioner did not appear for the hearing. [REDACTED], Petitioner's daughter and guardian, testified and participated as Petitioner's authorized hearing representative (AHR). [REDACTED], also Petitioner's daughter, testified on behalf of Petitioner. The Michigan Department of Health and Human Services (MDHHS) was represented by Rebecca Ferrill, supervisor.

### **ISSUE**

The issue is whether MDHHS properly denied Petitioner's request for Medicaid benefits in March 2019 and April 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. On January 25, 2019, Petitioner began continuous residency in a hospital or long-term care facility.
2. On [REDACTED], 2019, MDHHS received Petitioner's application requesting Medicaid benefits since March 2019. MDHHS additionally received Petitioner's Asset Declaration (DHS-4574-B). Petitioner reported four life insurances which had

cash values: two policies (Insurance1 and Insurance2) under [REDACTED], a policy with [REDACTED] (Insurance3), and a policy with [REDACTED] (Insurance4).

3. On June 25, 2019, MDHHS mailed Petitioner's AHR a Verification Checklist (VCL) requesting the value of Petitioner's four life insurance cash values as of January 25, 2019, and June 2019. A due date of June 25, 2019 was stated. Exhibit A, pp. 10-11.
4. On July 3, 2019, Petitioner's AHR returned documents for Insurance1's cash value as of July 3, 2019, Insurance2's cash value as of April 1, 2019, Insurance3's cash value as of May 8, 2019, and Insurance4's cash value as of February 6, 2019.
5. On July 9, 2019, MDHHS issued Petitioner's AHR a letter stating that all returned life insurance documents could not be used because they did not verify cash values as of January 25, 2019, and June 2019. Exhibit A, p. 12.
6. On an unspecified date, MDHHS extended Petitioner's AHR due date to July 19, 2019, concerning the return of life insurance cash value verifications. Exhibit A, pp. 13-14.
7. On August 5, 2019, MDHHS denied Petitioner's Medicaid eligibility for retroactive and ongoing months. Exhibit A, pp. 16-18.
8. On [REDACTED], 2019, MDHHS received Petitioner's second Medicaid application. Again, Petitioner sought Medicaid for three retroactive months. Exhibit A, pp. 19-29.
9. On an unspecified date, following the submission of requested verifications, MDHHS approved Petitioner for Medicaid benefits from May 2019.
10. On October 30, 2019, Petitioner's AHR requested a hearing to dispute the denial of Petitioner's Medicaid for March 2019 and April 2019.

### **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).

Petitioner's AHR requested a hearing to dispute a denial of her mother's Medicaid coverage for the months of March 2019 and April 2019. The dispute stems from the denial of Petitioner's application dated [REDACTED], 2019, requesting retroactive Medicaid. A Health Coverage Determination Notice dated August 5, 2019, stated that Petitioner's application was denied due to a failure to verify information. MDHHS testimony clarified that Petitioner failed to verify her assets.

Medicaid is also known as Medical Assistance (MA). BEM 105 (April 2017), p. 1. The Medicaid program includes several sub-programs or categories. *Id.* To receive MA under a Supplemental Security Income (SSI)-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. *Id.* Medicaid eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, MICHild and Healthy Michigan Plan is based on Modified Adjusted Gross Income (MAGI) methodology. *Id.*

Petitioner sought Medicaid as a disabled/aged person and/or resident of long-term care. Petitioner's circumstances qualify her for Medicaid only under SSI-Related Medicaid categories.

Asset eligibility is required for Medicaid under SSI-related MA categories. BEM 400 (February 2019) p. 6. Asset eligibility for SSI-related Medicaid exists 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. *Id.*, p. 7. Special rules for Medicaid may apply to applicants residing in long-term care or hospitals (L/H).

MDHHS is to apply special asset rules for the first period of continuous care for L/H clients when the client has a community spouse and an asset eligible period has not yet been established. BEM 402 (January 2019) p. 1. A "community spouse" means that the client is married and his/her spouse is not expected to be hospitalized or in long-term care in the following 30 days. *Id.*, p. 2. In such circumstances, an initial asset assessment (IAA) is needed to determine how much of a couple's assets are protected for the community spouse. *Id.*, p. 7. An initial asset assessment means determining the couple's (applicant's, spouse's, joint) total countable assets as of the first day of the first continuous period of care that began on or after September 30, 1989. *Id.* The DHS-4574-B, Assets Declaration, is used to request an initial asset assessment. *Id.*, p. 8.

Petitioner was hospitalized beginning [REDACTED], 2019. Her hospitalization led to residency in a LTC facility. Petitioner had a community spouse as of January 25, 2019. Because Petitioner's first period of continuous care began [REDACTED], 2019, MDHHS was authorized to verify the value of Petitioner's assets as of January 25, 2019.

MDHHS presented a VCL dated June 25, 2019, which listed requests for Petitioner's four life insurance policies by July 5, 2019. MDHHS specifically requested the value of each insurance as of January 25, 2019 and June 2019. In response to the VCL, Petitioner's AHR returned documentation verifying the cash value as of the following dates: Insurance1 as of July 3, 2019, Insurance2 as of April 1, 2019, Insurance3 as of

May 8, 2019, and Insurance4 as of February 6, 2019. Because MDHHS did not receive verification of Petitioner's assets as of January 25, 2019, MDHHS properly rejected the submission as acceptable verification. MDHHS subsequently sent Petitioner's AHR a letter explaining the reason for rejecting her submission and that verification for life insurance policy values were needed precisely for January 25, 2019.

Petitioner's AHR testified that Petitioner's life insurance companies expressed surprise over a need for documentation for life insurance policy values as of a specific date. She further stated that each life insurance company was able to provide her with the requested verification, but only after a protracted delay lasting beyond August 5, 2019 (the date MDHHS denied Petitioner's application). Petitioner's AHR further testified that she informed MDHHS of the problems throughout her efforts. Petitioner's AHR's testimony was credible and unrebutted. The circumstances raise a question of whether MDHHS may deny an application (or Asset Declaration) when the AHR takes reasonable, but unsuccessful, efforts to obtain verification.

IAA case actions must be completed within the standards of promptness listed in BAM 115. BAM 105 (January 2019) p. 20. MDHHS is to complete an initial asset assessment and mail notice within 45 days. BAM 115 (January 2019) p. 7 and BEM 402 (January 2019) p. 8. The SOP begins when MDHHS receives a signed DHS-4574B, Assets Declaration. *Id.*, p. 17.

MDHHS is to allow the client 10 calendar days (or other time limit specified in policy) to provide any verification requested. BAM 130 p. 8. If the client cannot provide the verification despite a reasonable effort, MDHHS is to extend the time limit up to two times. *Id.* MDHHS is to send a case action notice when the client:


- indicates refusal to provide a verification, or
- the time period given has elapsed. *Id.*

MDHHS received a DHS-4574-B (Assets Declaration Patent and Spouse) on June 14, 2019. Adding 45 days to the submission date results in a standard of promptness due date of August 5, 2019. MDHHS denied Petitioner's application on August 5, 2019. As of August 5, 2019, MDHHS mailed Petitioner's AHR a VCL, mailed a courtesy letter reiterating what verifications were needed, and waited until the last possible date to receive verifications while meeting standards of promptness. MDHHS was as patient and helpful to Petitioner as its policy allows. MDHHS waited the maximum duration allowed under its policy for Petitioner's AHR to return verifications. Despite Petitioner's AHR's credible explanation for not being able to return verifications before August 5, 2019, MDHHS complied with its policies. Due to the lack of asset verification, MDHHS properly denied Petitioner's application dated [REDACTED], 2019, which requested retroactive Medicaid benefits from March 2019 and April 2019.

**DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly denied Medicaid eligibility to Petitioner for March 2019 and April 2019 due to a failure to verify assets. The actions taken by MDHHS are **AFFIRMED**.

CG/cg

  
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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

**Via Email:**

MDHHS-Grand Traverse-Hearings  
D. Smith  
EQAD  
BSC1- Hearing Decisions  
MOAHR

**Petitioner –  
Via First-Class Mail:**

[REDACTED]

**Authorized Hearing Rep. –  
Via First-Class Mail:**

[REDACTED]