



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 14, 2020
MOAHR Docket No.: 19-012657
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 January 8, 2020 from Detroit, Michigan. The Petitioner was represented by her niece and guardian, [REDACTED]. The Department of Health and Human Services (Department) was represented by Cheryl Watkins, Assistance Payments Supervisor, and Octavia Bill, Eligibility Specialist.

ISSUE

Did the Department properly deny Petitioner's Application for Medical Assistance (MA) Program benefits for August and September 2019 as a result of excess assets?

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 [REDACTED] 2019, the Department received Petitioner's Application and Retroactive Application for MA benefits.
2. Petitioner was age [REDACTED] at the time of Application, living in a nursing home, suffering from dementia, and receiving Retirement Survivors Disability Insurance (RSDI) benefits.
3. At some point between October 1, 2019 and October 18, 2019, the Department received verification of Petitioner's bank account showing her lowest balance since

July 1, 2019 as \$5,168.72 and the highest balance as of September 30, 2019 as \$5,782.85 as of October 7, 2019.

4. On October 18, 2019, the Department issued a Health Care Coverage Determination Notice (HCCDN) to Petitioner informing her that she was ineligible for MA benefits for August and September 2019 due to excess assets.
5. On November 19, 2019, the Department received a request for hearing on Petitioner's behalf from her guardian disputing the Department's denial of MA benefits for August and September 2019.

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's guardian disputes the Department's denial of MA benefits for August and September 2019 based upon excess assets. Assets are considered in determining eligibility for SSI-Related MA programs. BEM 400 (July 2019), p. 1. SSI-Related MA categories include MA benefits for people who are age 65 or older, blind, disabled, entitled to Medicare, or formerly blind or disabled. BEM 105 (April 2017), p. 1. Since Petitioner is aged and disabled, she may be eligible for SSI-Related MA benefits. The SSI-related MA asset limit for a group size of one, because Petitioner is not married, is \$2,000.00. BEM 400 (July 2019), p. 8. Asset eligibility exists when countable assets are less than or equal to the asset limit at least one day during the month being tested. BEM 400, p. 7. Petitioner's assets were more than double the asset limit in August and September 2019. Therefore, she was not eligible for SSI-Related MA benefits in these months.

Petitioner's guardian argues that due to extenuating circumstances regarding the death of Petitioner's son, family dynamics, and legal proceedings, an exception should be provided to Petitioner to allow for her eligibility. Policy and federal regulations do not provide for an exception in the situations described by Petitioner's guardian. Therefore, the Department properly denied Petitioner's Application for August and September 2019 based upon excess assets.

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 Petitioner's Application based upon excess assets for August and September 2019.

DECISION AND ORDER

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

AM/cg



Amanda M. T. Marler
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-Washtenaw-20-Hearings
D. Smith
EQAD
BSC4- Hearing Decisions
MOAHR

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

[REDACTED]

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

[REDACTED]