



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 3, 2020
MOAHR Docket No.: 20-004181
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 July 27, 2020 from Detroit, Michigan. Petitioner appeared and represented herself. Also appearing on behalf of Petitioner was Petitioner's husband, [REDACTED]. The Department of Health and Human Services (Department) was represented by Rebecca Ferrill, Assistance Payments Supervisor. During the hearing, an 11-page packet of documents was offered and admitted into evidence as Exhibit A.

ISSUE

Did the Department properly close Petitioner's Medicaid benefits case under the Extended-Care (EC) category, effective April 1, 2020?

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 MA benefits under the EC category.
2. On February 24, 2020, Petitioner notified the Department that she had just that day deposited the proceeds of a lawsuit settlement into her bank account. The total deposit was a little more than \$61,000. Exhibit A.

3. On March 4, 2020, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that her MA benefits case would be closing, effective April 1, 2020, as a result of the Department's finding that the value of Petitioner's assets exceeded the limit for program eligibility. Exhibit A.
4. On [REDACTED], 2020, Petitioner submitted to the Department a request for hearing objecting to the Department's action.

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 found to be ineligible for MA under the EC category, effective April 1, 2020, due to having countable assets valued at greater than the asset limit applicable to that program. The Department's finding was based entirely off its determination that the lawsuit proceeds of approximately \$61,000 were countable assets. Petitioner objected to that finding and claimed that she properly spent down the balance on paying down the mortgage and car notes.

To be eligible for MA under the EC category, 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, 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.

Of note, during the hearing, Petitioner and her husband testified that the mortgage and car payoffs were not made until April 2020, after the hearing request and case action effective date. Additionally, Petitioner conceded on the record that the balance of the bank account never went below \$2,000 until after the case had already closed. Based on those facts, the Department's determination to close Petitioner's MA benefits case, effective April 1, 2020, was pursuant to law and policy.

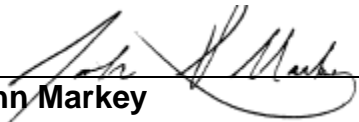
During the hearing, Petitioner presented evidence suggesting that eligibility may have been established at some point after the case closed. Petitioner is reminded that an application may be filed at any time requesting retroactive benefits up to three months and that upon submitting a new application, eligibility will be determined at that time.

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 closed Petitioner's MA benefits case under the EC category, effective April 1, 2020.

DECISION AND ORDER

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

JM/tm



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

DHHS

Tricia Pleva
503 North Birch Street
Kalkaska, MI 49646

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]

cc: MA- Deanna Smith; EQADHShearings
Kalkaska County AP Specialist (2)