



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: March 4, 2021
MOAHR Docket No.: 20-008620
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Landis Lain

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 March 2, 2021, from Lansing, Michigan. Petitioner [REDACTED] self-represented. Program Manager Tequella Anthony appeared and testified on Petitioner's behalf.

The Department of Health and Human Services (Department) was represented by Christen Crane, Assistance Payments Worker.

Petitioner's Exhibit pages 1-5 were admitted as evidence and Department's Exhibit pages 1-4 were admitted as evidence.

ISSUE

Did the Department properly deny Petitioner's application for Medical Assistance (MA)?

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], 2020, Petitioner filed an application for Medical Assistance and Retroactive Medical Assistance.
2. The Petitioner's assets were counted including her savings account.
3. For October 2020, Petitioner's total assets were \$4,640.79 at the beginning and \$4,081.34 at the end of the month.

4. The bank balance did not fall below \$,2000.00 at any time during the month of October.
5. Petitioner was over the asset limit for October 2020.
6. The application was denied.
7. On November 13, 2020, the Department sent Petitioner Notice that the application for MA was denied based upon excess assets.
8. On January 5, 2021, Petitioner's Authorized Representative filed a request for a hearing to contest the negative action.
9. On January 11, 2021, the Michigan Office of Administrative Hearings and Rules received a Hearing Summary and attached documents.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance has been denied. MAC R 400.903(1). Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

Department policies are contained in the following Department of Health and Human Services Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

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.

Pertinent Department policy dictates:

Assets must be considered in determining eligibility for FIP, SDA, RCA, G2U, G2C, RMA, SSI-related MA categories, CDC and FAP. FIP, SDA, RCA, G2U, G2C, CDC and RMA consider only the following types of assets:

- Cash (which includes savings and checking accounts).
- Investments (which includes 401(k), Roth IRA etc.).

- Retirement Plans.
- Trusts.

assets mean:

- Cash (see Cash in this item).
- Personal property. Personal property is any item subject to ownership that is not real property (examples: currency, savings accounts and vehicles).
- Real property. Real property is land and objects affixed to the land such as buildings, trees and fences. Condominiums are real property. BEM 400, page 1

All types of assets are considered for SSI-related MA categories. BEM 400, page 2 Asset eligibility is required for G2U, G2C, RMA, and SSI-related MA categories. Asset eligibility 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. At application, do not authorize MA for future months if the person has excess assets on the processing date.

If an ongoing MA recipient or active deductible client has excess assets, initiate closure. However, delete the pending negative action if it is verified that the excess assets were disposed of. Payment of medical expenses, living costs and other debts are examples of ways to dispose of excess assets without divestment. LTC and waiver patients will be penalized for divestment; see BEM 405, MA DIVESTMENT. BEM 400, page 6

For all other SSI-related MA categories, the asset limit is:

- \$2,000 for an asset group of one.
- \$3,000 for an asset group of two BEM 400, page 8

Petitioner's bank statements indicate that Petitioner retained more than \$2,000.00 in countable available assets at all times during the month of October. The Department has established by the necessary, competent and material evidence on the record that it acted in accordance with Department policy when it denied Petitioner's application for Medical Assistance based upon excess assets.

DECISION AND ORDER

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 finds that Petitioner's Request for Hearing is untimely. In the alternative, the Department's determination that Petitioner has more than \$2,000.00 in countable, available assets for the months of October 2020 was correct under the circumstances.

Accordingly, the Request for Hearing is **DISMISSED** as untimely. In the alternative, the actions of the Department must stand and are **AFFIRMED**.

LL/hb



Landis Lain
Administrative Law Judge
for Elizabeth Hertel, 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

Oakland County (District 2) via electronic mail

BSC4 via electronic mail

C. George via electronic mail

EQADHShearings via electronic mail

Petitioner


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