



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED], MI [REDACTED]

Date Mailed: April 25, 2019
MOAHR Docket No.: 19-000747
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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 28, 2019, from Lansing, Michigan. Petitioner was represented by her son and legal guardian, [REDACTED], and daughter-in-law, [REDACTED]. The Department of Health and Human Services (Department) was represented by Danielle Shanley, Assistance Payments Worker.

ISSUE

Did the Department properly determine that Petitioner was not eligible for Medical Assistance (MA) Long Term Care (LTC) due to 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. Petitioner was a recipient of MA LTC with a redetermination due September 2018.
2. On September 6, 2018, Petitioner submitted her Redetermination Application, DHS-4574, to the Department. Department Exhibit 1, pgs. 1-4.
3. On September 11, 2018, the Department Caseworker sent Petitioner a Verification Checklist through her daughter, [REDACTED], for a request for written verification of real estate property located at [REDACTED], MI [REDACTED] due September 21, 2018. Department Exhibit 1, pgs. 5-6.
4. On October 3, 2018, the Department Caseworker sent Petitioner a Health Care Coverage Determination Notice, DHS-1606, that stated that Petitioner was not

eligible for MA due to failure to verify real property that was not returned effective October 1, 2018. Department Exhibit 1, pgs. 38-40.

5. On October 11, 2018, the Department Caseworker received a written verification from Petitioner's daughter of a real estate listing for the contested property of [REDACTED], MI [REDACTED] Department Exhibit 1, pgs. 11-13.
6. On October 26, 2018, the Department Caseworker received a copy of the uniform listing agreement, property description, and sale listing for [REDACTED], MI [REDACTED] Department Exhibit 1, pgs. 14-18.
7. On October 29, 2018, the Department Caseworker sent Petitioner a Health Care Coverage Determination Notice, DHS-1606, that stated that Petitioner was not eligible for MA due to excess assets. Department Exhibit 1, pgs. 26-30.
8. On January 10, 2019, the Department received a hearing request from Petitioner, contesting the Department's negative 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's son and legal guardian testified during the hearing that the existing realtor had a stroke, so the listing was not renewed when it expired on April 30, 2018, with Keller Real Estate. He was not aware that the listing had not been automatically renewed or that the realtor had had a stroke. The real estate was relisted with a new realtor on October 10, 2018, as quickly as possible with Boris Realtors. Department Exhibit 1, pgs. 11-13.

During the hearing, the Department Caseworker testified that there were other issues with the listing at [REDACTED] MI [REDACTED]. It was listed over the fair market value of \$112,600.00 for \$169,000.00, no number on the MLS listing system, and was not publicly advertised for sale. Department Exhibit 1, pgs. 14-18. As a result, the Department properly determined that the real estate was a countable asset.

Petitioner's son stated that the reason for the property not listed on MLS and not being publicly advertised for sale was because it upsets his autistic son to have potential buyers coming on the property or driving by to look at the property. However, the Department requires for the asset not be counted that those are the requirements of the Department policy. As a result, the Department properly determined that Petitioner had excess assets for MA due to being in noncompliance for the asset to not be counted. BEM 400. BAM 130, 210, and 220.

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 acted in accordance with Department policy when it closed Petitioner's MA LTC case effective October 2018 due to excess assets.

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

CF/hb



Carmen G. Fahie
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 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

Renee Olian
322 Stockbridge
Kalamazoo, MI 49001

DHHS

Rhonda Legault (Luce DHHS)
500 West McMillan St.
Newberry, MI 49868

Kalamazoo County, DHHS

Luce County, DHHS

BSC1 via electronic mail

BSC3 via electronic mail

D. Smith via electronic mail

EQADHShearings via electronic mail

Petitioner

[REDACTED]
[REDACTED], MI [REDACTED]

Authorized Hearing Rep.

[REDACTED]
[REDACTED], MI [REDACTED]