



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
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[REDACTED]
MI [REDACTED]

Date Mailed: April 23, 2019
MOAHR Docket No.: 19-001865
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 April 15, 2019, from Detroit, Michigan. The Petitioner was represented by his daughter and Authorized Hearings Representative, [REDACTED]. The Department of Health and Human Services (Department) was represented by Marsha Dial, Family Independence Manager.

ISSUE

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

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 December 5, 2018, Petitioner submitted an application for MA and retroactive MA beginning August 2018.
2. On December 6, 2018, the Department issued a Verification Checklist (VCL) to Petitioner and his AHR requesting proof of his checking account, pension, and the irrevocable assignment of life insurance due by December 17, 2018.
3. On January 10, 2019, the Department received the Irrevocable Transfer of Ownership for life insurance for Petitioner which was signed on the same day.
4. On January 17, 2019, the Department issued a Health Care Coverage Determination Notice (HCCDN) to Petitioner and his AHR informing them that Petitioner was not eligible for MA benefits from September 2018 through December 2018 because his countable assets were higher than the allowed

amount for the program, but that he was eligible for MA benefits effective January 2019 with a patient pay amount of \$ [REDACTED]

5. On February 28, 2019, the Department received a request for hearing from Petitioner's AHR disputing the denial of MA benefits from August 2018 through December 2018.

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 denied MA benefits from September 2018 through December 2018 based upon excess assets. The Department failed to address Petitioner's MA eligibility in its HCCDN for August 2018. However, policy provides that the Retroactive MA application is used to apply for retroactive benefits up to three months prior to the application. BAM 115 (October 2018), p. 12. Since Petitioner's application was received on December 5, 2018, three months prior to the Department's receipt of the application would be September 2018. Therefore, the Department's failure to address Petitioner's August 2018 MA eligibility was a harmless error because retroactive benefits can only be granted to clients for up to three months prior to their application date.

Countable assets cannot exceed the limit. BEM 400, p. 2. Assets include cash, personal property, and real property. BEM 400 (May 2018), pp. 1-2. Supplemental Security Income (SSI)-related MA categories have an asset limit of \$2,000 for a group size of one. BAM 400, p. 8. SSI-related MA categories are considered MA options for those who are aged, blind, or disabled. BEM 105 (April 2017), p. 4; BEM 101 (April 2017). No evidence was presented that Petitioner had any other potential group members. The Department considered the following assets for Petitioner: liquid cash assets, a burial asset life insurance policy, and a life insurance policy with an equity value of less than or equal to \$1,500. Petitioner's AHR did not dispute the value of any of the assets. The Department exempted the life insurance policy with an equity value of less than \$1,500.00 for each month pursuant to policy. BEM 400, p. 45.

The main concern in this case is the burial fund with a value of \$ [REDACTED]. Prior to January 10, 2019, the fund (life insurance) had been revocably transferred to [REDACTED]. On January 10, 2019, the fund was irrevocably transferred to [REDACTED]. Policy provides that certain types of cash assets including life insurance policies can be excluded from consideration as an asset for a burial fund. BEM 400, pp. 47-48. In order to be exempted from consideration, the asset must be clearly designated and not commingled with other assets. In addition, life insurance policies which have directed the proceeds to be used for funeral expenses, but have not irrevocably transferred, must be treated as a life insurance policy and considered as an asset. BEM 400, pp. 44, 54. If the life insurance policy is irrevocably transferred, the cash surrender value of the policy is no longer considered an asset effective the month of transfer. BEM 400, p. 55.

Petitioner's life insurance policy which was directed to be used for burial services and was not irrevocably transferred until January 10, 2019; therefore, the life insurance policy must be considered an asset for Petitioner's MA eligibility from September 2018 through December 2018. The value of the policy is its cash surrender value, or the amount of money the policy owner can get by canceling the policy before it matures or before the insured dies. BAM 400, p. 44. Petitioner's AHR did not dispute the value as listed by the Department of the policy, \$ [REDACTED].

Therefore, in September 2018, Petitioner had total countable assets of \$ [REDACTED] after consideration of his cash assets. In October 2018, he had total countable assets of \$ [REDACTED]. In November 2018, he had total countable assets of \$ [REDACTED]. Finally, in December 2018, he had total countable assets of \$ [REDACTED]. The Department was correct in denying Petitioner's eligibility for MA benefits for September 2018 through December 2018.

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 failed to grant Petitioner MA benefits from August 2018 through December 2018 based upon excess assets.

DECISION AND ORDER

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



AMTM/

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

DHHS

Christine Steen
MDHHS-Wayne-82-Hearings

Authorized Hearing Rep.

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Petitioner

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