



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], MI [REDACTED]

Date Mailed: May 30, 2019
MOAHR Docket No.: 19-002535
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, telephone hearing was held on May 2, 2019, from Lansing, Michigan. Petitioner was represented by his authorized hearing representative, [REDACTED]. The Department was represented by Tamara Zander and Sharonda Dyer.

ISSUE

Did the Department of Health and Human Services (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], 2019, the Department received Petitioner's application for Medical Assistance (MA) and request for retroactive benefits. Exhibit A, pp 2-8.
2. On January 18, 2019, the Department sent Petitioner a Verification Checklist (DHS-3503) requesting verification of assets by January 28, 2019. Exhibit A, pp 9-10.
3. On February 8, 2019, the Department received verification a life insurance policy with a cash surrender value of \$3,407.55. Exhibit A, p 11.
4. On February 8, 2019, the Department received verification of a bank account showing an ending balance of \$1,086.10. Exhibit A, pp 12-13.
5. On February 13, 2019, the Department notified Petitioner that she was not eligible for Medical Assistance (MA) effective October 1, 2018. Exhibit A, pp 14-17.

6. On March 12, 2019, the Department received Petitioner's request for a hearing protesting the denial of Medical Assistance (MA). Exhibit A, pp 28-32.

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.

Assets means cash, any other personal property and real property. Real property is land and objects affixed to the land such as buildings, trees and fences. Condominiums are real property. Personal property is any item subject to ownership that is not real property. Countable assets cannot exceed the applicable asset limit. An asset is countable if it meets the availability tests and is not excluded. Available means that someone in the asset group has the legal right to use or dispose of the asset. Department of Human Services Bridges Eligibility Manual (BEM) 400 (January 1, 2018), pp 1-7.

On [REDACTED], 2019, the Department received Petitioner's application for MA benefits with retroactive benefits for the previous three months. Petitioner provided verification of a bank account and a life insurance policy with a \$3,407.55 cash surrender value. Since Petitioner's countable assets exceed the \$2,000 asset limit of BEM 400, the Department denied the application for MA benefits.

Petitioner argued that the steps necessary to obtain the assets made them unavailable.

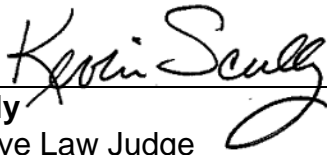
However, an asset is considered available under Department policy if the owner has the legal right to use or dispose of the asset, even if it is necessary to obtain a conservator or guardian to use the asset. BEM 400, p 10.

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 January 16, 2019, application for Medical Assistance (MA).

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

KS/dh



Kevin Scully
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 Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

Christine Steen
3040 West Grand Blvd
Suite 4-250
Detroit, MI 48202

Wayne County (District 82), DHHS

BSC4 via electronic mail

EQAD via electronic mail

D. Smith via electronic mail

Petitioner

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]

Authorized Hearing Rep.

[REDACTED]
[REDACTED] MI [REDACTED]