



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: August 22, 2019
MOAHR Docket No.: 19-006653
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 July 25, 2019, from Lansing, Michigan. Petitioner was represented by her daughter and POA, [REDACTED] and her son in law, [REDACTED]. The Department of Health and Human Services (Department) was represented by Nina Kossak, Eligibility Specialist.

ISSUE

Did the Department properly determine Petitioner's eligibility for Medicaid (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. In October 2017, Petitioner gifted her daughter with \$120,270.00, which was a divestment. Department Exhibit 1, pg. 9.
2. Petitioner applied for MA on [REDACTED], 2019. Department Exhibit 1, pgs. 3-8.
3. The Department approved Petitioner for MA retroactive February 1, 2019.
4. The Department determined that the divestment penalty for \$120,270.00 was a penalty period that would start on February 1, 2019, and run for 1 year, 2 months, and 26 days.
5. On June 17, 2019, the Department Caseworker sent Petitioner a Health Care Coverage Determination Notice, DHS-1606, that her divestment period was

February 1, 2019, through April 26, 2020, for a divested amount of \$120,270.00. Department Exhibit 1, pgs. 16-18.

6. On June 24, 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, the parties have agreed to a settlement due to the payments that Petitioner's daughter has made on Petitioner's behalf. Petitioner's condo was sold on July 21, 2017, for \$203,462. The Department agrees to send a Verification Checklist for an accounting on the monies received from the condo and spent on Petitioner's care. Petitioner's daughter stated that she has been paying since December 1, 2017. The Department agreed to contact the facility where Petitioner resides.

As a result of this settlement, Petitioner no longer wishes to proceed with the hearing. As such, it is unnecessary for this Administrative Law Judge to render a decision regarding the facts and issues in this case.

DECISION AND ORDER

The Administrative Law Judge concludes that the Department and Petitioner have come to a settlement regarding Petitioner's request for a hearing.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Redetermine Petitioner's penalty period based on Petitioner's daughter's payments to the facility since the condo sold in July 2017.

2. Send Petitioner's daughter a Verification Checklist giving her 10 days to give an accounting of the monies received and spent from the condo sale for the Petitioner's care.
3. Contact the facility where Petitioner's resides to get an accounting of her billing since the condo sold in July 2017.
4. Provide Petitioner with written notification of the Department's revised eligibility determination.
5. Issue Petitioner any retroactive benefits she may be eligible to receive, if any.

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 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

Linda Gooden
25620 W. 8 Mile Rd
Southfield, MI 48033

Oakland County (District 3), DHHS

BSC4 via electronic mail

D. Smith via electronic mail

EQADHShearings via electronic mail

Authorized Hearing Rep.

[REDACTED]

Petitioner

[REDACTED], MI [REDACTED]