



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]

Date Mailed: September 20, 2019
MOAHR Docket No.: 19-007689
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: John Markey

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 September 19, 2019 from Detroit, Michigan. Petitioner appeared and was represented by attorney [REDACTED]. The Department of Health and Human Services (Department) was represented by Valarie Foley, Hearings Facilitator. During the hearing, a ten-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-10.

ISSUE

Did the Department properly deny Petitioner's [REDACTED] 2019 application for Medicaid (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. At all times relevant to the instant matter, Petitioner was widowed and over the age of [REDACTED].
2. In [REDACTED] 2019, Petitioner submitted to the Department an application for MA benefits.
3. During the application process, Petitioner submitted a bank statement showing that she had an intramonth low balance of \$2,552.79 in her account. It further showed

that Petitioner received income of \$ [REDACTED] from a pension and \$ [REDACTED] from the Social Security Administration. Exhibit A, pp. 7-8.

4. On July 1, 2019, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that her application was denied based on the Department's determination that the value of Petitioner's assets exceeded the limit for program eligibility. Exhibit A, p. 6.
5. On [REDACTED], 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's determination.

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 objects to the denial of her application for MA benefits on the basis of the Department's determination that Petitioner's assets exceed the limit for program eligibility. The Department made its decision based upon a review of a bank statement Petitioner submitted showing that Petitioner had over \$ [REDACTED] in a bank account.

Petitioner is not eligible for coverage under the full-coverage Healthy Michigan Plan, which does not have an asset test, as Petitioner is over the age of 64. BEM 137 (January 2019), p. 1. As an aged individual over the age of 64, Petitioner is potentially eligible to receive MA benefits through AD-Care or G2S programs, both of which are SSI-related MA programs. BEM 163 (July 2017), p. 1; BEM 166 (April 2017), p.1. To be eligible for SSI-related MA, the value of an individual's countable assets must be less than or equal to the asset limit at least one day during the month tested, which is \$2,000 for the programs relevant to this matter. BEM 400, pp. 7-8. The Department does not count funds treated as income by a program as an asset for the same month for the same program. BEM 400, p. 23. Thus, income received during any given month is counted as income and only becomes a countable asset in following months.

The bank statement presented by Petitioner showed an intramonth low balance of \$ [REDACTED] and a final balance of \$ [REDACTED]. The statement also showed that the

balance included a total of \$848.04 in unearned income that was received during that same month. As that income should be treated as income during the month it was received, it must be removed from the assets calculation per Department policy. Upon removing the income from the equation, the countable assets are reduced below the threshold for program eligibility. The Department improperly counted Petitioner's income as an asset during the month it was received. It should have been counted only as income.

The evidence on the record shows that Petitioner is not asset ineligible for either AD-Care or G2S MA coverage. The Department must reprocess Petitioner's application and determine Petitioner's eligibility for MA benefits under the most beneficial category for which she is eligible.

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 did not act in accordance with Department policy when it denied Petitioner's application for MA benefits.

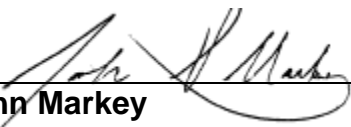
DECISION AND ORDER

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

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. Reprocess Petitioner's MA application;
2. Properly assess the value of Petitioner's assets according to Department policy, including the policy with respect to disregarding income received during the month from the asset calculation;
3. Determine Petitioner's eligibility for MA benefits from the time of application and if eligible, provide benefits under the most favorable category Petitioner is eligible for; and
4. Notify Petitioner in writing of its decisions.

JM/cg



John Markey
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

Via Email:

MDHHS-Wayne-19-Hearings
D. Smith
EQAD
BSC4- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

