



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: October 25, 2019
MOAHR Docket No.: 19-008654
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 October 2, 2019, from Lansing, Michigan. The Petitioner was represented by her son and guardian, [REDACTED] and daughter, [REDACTED]. The Department of Health and Human Services (Department) was represented by Annette Dent, Eligibility Specialist. Department Exhibit 1, pgs. 4-30 and Department Exhibit 2, pgs. A-F were introduced and made a part of the record.

ISSUE

Did the Department properly determine that Petitioner was not eligible for Medical Assistance (MA) 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. On [REDACTED], 2019, Petitioner applied for MA.
2. On June 25, 2019, the Department Caseworker sent Petitioner a Health Care Coverage Determination Notice, DHS-1606, that stated she was not eligible for Medicaid for the month of May 2019 ongoing due to excess assets, but she was eligible for the Medicaid Savings Program. Department Exhibit 2, pgs. A-C.
3. On [REDACTED], 2019, Petitioner filed a second application for MA. Department Exhibit 1, pgs. 14-17.

4. On July 18, 2019, the Department Caseworker sent Petitioner a Health Care Coverage Determination Notice, DHS-1606, that stated she was not eligible for Medicaid for the month of June 2019 ongoing due to excess assets, but she was still eligible for the Medicaid Savings Program. Department Exhibit 2, pgs. D-F.
5. On [REDACTED], 2019, Petitioner submitted a third application for MA, which was approved.
6. On August 8, 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 filed two applications for MA that were denied. She received Social Security RCI income of \$487.70 of which \$135.50 was deducted for Medicaid part B insurance premiums each month, resulting in a regular monthly Social Security payment of \$352 per month. Department Exhibit 1, pg. 13. She became eligible for the Medicaid Savings Program beginning June 1, 2019, which resulted in an increase of her RSDI income because the state of Michigan was paying her Medicaid part B insurance premium of \$135.50. In addition, Petitioner received a monthly pension of \$216.50.

The Department determined that she had excess assets for her first application because her checking account balances were greater than the \$2,000 asset limit required by the MA program for the month of May 2019. For the first application, the Department Caseworker determined that account A had a low balance of \$596.08 minus the income from her pension of \$216.50, account B had a low balance of \$32.16, account C had a low balance of \$2,383.20, which equals a total asset balance of \$2,794.94. As a result, Petitioner was over the allowable asset limit of \$2,000 per BEM 400. She was eligible for the Medicaid savings program that would pay her Medicaid part B premium starting June 1, 2019.

The Administrative Law Judge notes that the Department failed to deduct Petitioner's Social Security RSDI income of \$487.70, which is not a significant mistake because she was still over the asset limit of \$2,000.

On the second application, Petitioner's account A had a low balance of \$596.08 minus the income of \$216.50, which was her pension, account B with a low balance of \$32.16, account C with a low balance of \$1,643.30 for a total low balance of \$2,055.04, which is still over the allowable limit of \$2,000 per BEM 400 according to the Department. Petitioner remains eligible for the Medicaid Savings Program since June 1, 2019. However, the Administrative Law Judge notes that the Department Caseworker failed to deduct Petitioner's Social Security RSDI income of \$487.70 because the State of Michigan was paying her Medicaid Part B premium insurance. As a result, Petitioner may be eligible for MA for the month of June 2019.

During the hearing, Petitioner's son and legal guardian stated that his mother did not have excess assets because some of the money in the account was his sister's. However, it could not be determined by the bank statement provided whose funds were in the accounts. There was no verification provided to the Department about which of the funds belong to the daughter and Petitioner. However, the Department was required to subtract her pension of \$216.50 and her Social Security RSDI of \$352 plus a deduction of \$135 for her Medicaid part B insurance premium from her asset account for May 2019. For June 2019, the Department was required to subtract her pension of \$216.50 and her Social Security RSDI of \$487.70 because the State of Michigan was paying her Medicaid part B insurance premium.

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 did not act in accordance with Department policy when it failed to subtract Petitioner's Social Security RSDI income of \$487.50 from her assets, which may make her eligible for the month of June 2019, but correctly determined that she excess assets for the month of May 2019.

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to her Medicaid application for May 31, 2019 and **REVERSED IN PART** with respect to her Medicaid application for June 25, 2019.

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. Initiate a redetermination of Petitioner's eligibility for MA retroactive to her [REDACTED], 2019, application.

2. Based on policy, the Department should provide Petitioner with written notification of the Department's revised eligibility determination.
3. 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

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

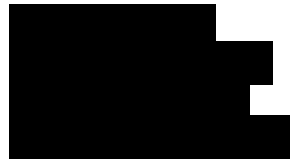
Wayne County (District 82), DHHS

BSC4 via electronic mail

D. Smith via electronic mail

EQADHShearings via electronic mail

Petitioner

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Authorized Hearing Rep.

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