



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], GA [REDACTED]

Date Mailed: November 20, 2019  
MOAHR Docket No.: 19-008864  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Ellen McLemore**

**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 November 13, 2019, from Detroit, Michigan. Petitioner was represented by his Authorized Hearing Representative (AHR), [REDACTED]. The Department of Health and Human Services (Department) was represented by Erik Lewis, Assistance Payments Supervisor and Franklin Cabello, Eligibility Specialist.

**ISSUE**

Did the Department properly deny Petitioner's application for Medical Assistance (MA) benefits for April 2019?

**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's AHR submitted an application for MA benefits on behalf of Petitioner (Exhibit A, pp. 1-4).
2. On May 1, 2019, the Department sent Petitioner's AHR a Verification Checklist (VCL) requesting verification of Petitioner's checking account for April 2019 (Exhibit A, p. 8).
3. On May 22, 2019, Petitioner's AHR submitted verification of Petitioner's checking account for April 2019 (Exhibit A, pp. 9-10).

4. On May 24, 2019, the Department sent Petitioner's AHR a Health Care Coverage Determination Notice informing her that Petitioner's application for MA benefits was denied for April 2019, for excess assets (Exhibit A, p. 12). Petitioner was approved for MA benefits effective May 1, 2019, ongoing.
5. On August 16, 2019, Petitioner's AHR submitted a request for hearing disputing the Department's decision to deny Petitioner's request for MA coverage for April 2019.

### **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's AHR submitted an application for MA benefits under the Extended Care (EC) category, as Petitioner was residing in a long-term care facility. Petitioner's AHR submitted verification of Petitioner's checking account showing that as of April 30, 2019, he had \$13,674.02 in funds in the account.

EC is an SSI-related Group 1 MA category. BEM 164 (April 2017), p. 1. Under the EC program, countable assets cannot exceed the asset limit under BEM 400. BEM 164, p. 2. The Department considers cash, investments, retirement plans, and trusts. BEM 400, p. 1. Cash assets includes funds in a checking account. BEM 400, p. 15. For cash assets, 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. 22. An asset group includes the individual and the individual's spouse. BEM 211 (January 2016), p. 8. For SSI-related MA categories, the asset limit for a group of one is \$2,000. BEM 400, p. 8.

Petitioner was not married. Per policy, Petitioner's fiscal group size for SSI-related MA benefits is one. BEM 211 (January 2016), p. 8. Therefore, Petitioner's assets cannot exceed the limit of \$2,000. The Department testified that the funds in Petitioner's checking account well exceeded the asset limit under the EC category for April 2019. As such, the Department denied Petitioner's application for MA coverage for April 2019.

Petitioner's AHR testified that the funds in the checking account were designated for burial/funeral services for Petitioner. Petitioner's AHR stated that she had difficulty

coordinating the purchase of a prepaid funeral contract, as her father is Muslim and desired to be buried in a city in which he was not residing. Petitioner's AHR stated the logistics delayed the purchasing of the prepaid funeral contract, which was completed in early May 2019.

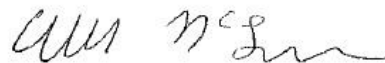
A limited amount of certain types of assets a person has clearly designated to pay for burial expenses is excluded as a burial fund. BEM 400, p. 49. The types of assets that can be designated as a burial fund include: (i) cash; (ii) investments; (iii) life insurance; or (iv) a prepaid funeral contract. BEM 400, p. 50. The asset must be clearly designated. BEM 400, p. 51. The designation can be on the asset or a signed statement from the client. BEM 400, p. 51. The designation must include: (i) the value and owner of the asset; (ii) whose burial the fund is for; (iii) the date the funds were set aside for the person's burial; and (iv) form in which the asset is held. BEM 400, p. 51. Burial funds may not be commingled with any assets except excluded burial space assets. BEM 400, p. 51.

Although Petitioner's AHR intended to use the funds in Petitioner's checking account for burial services, the asset was not properly designated as a burial fund. Additionally, the burial funds were commingled with Petitioner's other cash assets. Therefore, the Department acted in accordance with policy when it did not exclude the funds intended for Petitioner's burial/funeral in Petitioner's asset total. Petitioner's assets exceeded the asset limit in April 2019. As such, the Department acted in accordance with policy when it denied Petitioner's MA application for April 2019.

### **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 acted in accordance with Department policy when it denied Petitioner's MA application for April 2019. Accordingly, the Department's decision is **AFFIRMED**.

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**Ellen McLemore**  
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-82-Hearings  
D. Smith  
EQAD  
BSC4- Hearing Decisions  
MOAHR

**Authorized Hearing Rep. –  
Via First-Class Mail:**

[REDACTED]  
[REDACTED], GA [REDACTED]

**Petitioner –  
Via First-Class Mail:**

[REDACTED]  
[REDACTED], GA [REDACTED]