



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR



Date Mailed: January 9, 2020
MOAHR Docket No.: 19-012491
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, a telephone hearing was held on December 19, 2019, from Lansing, Michigan. Petitioner was represented by his authorized hearing representative [REDACTED]. The Department of Health and Human Services was represented by Amber Gibson and Lori Reyes.

ISSUE

Did the Department of Health and Human Services (Department) properly determined the divestment period on his Long-Term Care (LTC) 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. On September 25, 2019, the Department notified Petitioner that he was not eligible for Medical Assistance (MA) as of August 1, 2019, due to his countable assets. Exhibit A, pp 7-9.
2. On October 21, 2019, the Department notified Petitioner that he was eligible for Medical Assistance (MA) as of September 1, 2019, with a \$1,999 patient pay amount. Exhibit A, pp 10-13.
3. On November 12, 2019, the Department notified Petitioner that he was eligible for Medical Assistance (MA) as of September 1, 2019, with a \$1,968 patient pay amount. Exhibit A, pp 14-16.

4. Petitioner receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$2,230.60. Exhibit A, p 29.
5. On November 6, 2019, the Department received Petitioner's request for a hearing. Exhibit A, pp 3-4.

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.

On November 12, 2019, the Department notified Petitioner that he was eligible for MA benefits, and Long-Term Care (LTC) benefits with a \$1,968 patient payment amount. This amount was determined by reducing his gross RSDI benefits by the \$60 patient allowance and his Medicare premiums as directed by BEM 546.

Petitioner had been found ineligible for MA benefits in August of 2019, due to his countable assets exceeding the \$2,000 limit outlined in BEM 400. On November 12, 2019, the Department determined that Petitioner's countable assets were less than \$2,000, and he was eligible for LTC benefits.


However, the Department determined that Petitioner had transferred assets totaling \$5,650 within the previous 60 month look back period without receiving fair market value for the transfer and for a reason not excluded by BEM 405. When this amount was divided by the LTC cost outlined in BEM 405, the Department determined that Petitioner's LTC benefits would be subject to a 0.68-month divestment period, which is the equivalent of 20 days.

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 determined Petitioner's Patient Pay Amount and his 20 day divestment period.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

KS/hb



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 Office of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

Amber Gibson
5303 South Cedar
PO BOX 30088
Lansing, MI 48911

Ingham County, DHHS

BSC2 via electronic mail

D. Smith via electronic mail

EQADHS via electronic mail

Authorized Hearing Rep.

[REDACTED]

Petitioner

[REDACTED]