



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: January 17, 2020
MOAHR Docket No.: 19-012755
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 January 13, 2020 from Detroit, Michigan. The Petitioner was represented by her daughter and Authorized Hearings Representative (AHR), [REDACTED]. The Department of Health and Human Services (Department) was represented by Olivier Eaton, Eligibility Specialist, Marsha Dial, Family Independence Manager, and Delaun Hill, Eligibility Specialist.

ISSUE

Did the Department properly deny Petitioner's Application for Medical Assistance (MA) Program benefits based upon excess assets from June through September 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. Petitioner lives in a nursing home and is age [REDACTED].
2. On [REDACTED] 2019, the Department received Petitioner's Application for MA benefits.
3. On [REDACTED] 2019, the Department denied Petitioner's Application for MA benefits.
4. Petitioner had the following assets as of June 2019:
 - Home value at \$94,600.00
 - Burial Asset

- PNC Bank Account ending in [REDACTED] with a \$0.00 value after income was deducted
 - Life Insurance policy with Prudential with a cash value of \$8,199.85
5. On [REDACTED] 2019, the Department received Petitioner's second Application for MA benefits.
 6. On [REDACTED] 2019, the second Application was denied for excess assets.
 7. On [REDACTED] 2019, the Department received a third Application for MA benefits.
 8. On October 3, 2019, the Department issued a Health Care Coverage Determination Notice (HCCDN) to Petitioner informing her that her MA benefits had been denied for June and July 2019 due to excess assets.
 9. On October 10, 2019, the life insurance policy was cashed out, and the account closed.
 10. On October 21, 2019, the life insurance cash value was deposited to the [REDACTED] bank account.
 11. On the same day, a check was issued to Petitioner's nursing home in the amount of \$8,199.85 to pay for past housing and medical expenses incurred at the facility.
 12. On November 6, 2019, the Department issued another HCCDN to Petitioner informing her that effective October 1, 2019, she was eligible for MA benefits with a patient pay amount of \$1,983.00 per month, but that she was not eligible for MA benefits in June, July, or September 2019 due to excess assets, and was not eligible in August 2019 because she did not meet program eligibility requirements including age, pregnancy status, or disability or blindness status.
 13. On November 26, 2019, the Department received Petitioner's request for hearing from her AHR disputing the Department's denial of MA benefits for the period June 2019 through September 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 disputes the Department's denial of MA benefits for June through September 2019 based upon excess assets. Assets are considered in determining eligibility for Supplemental Security Income (SSI)-Related MA programs. BEM 400 (April 2019), p. 1. SSI-Related MA categories include MA benefits for people who are age 65 or older, blind, disabled, entitled to Medicare, or formerly blind or disabled. BEM 105 (April 2017), p. 1. Since Petitioner is aged and disabled, she may be eligible for SSI-Related MA benefits. The SSI-related MA asset limit for a group size of one, because Petitioner is not married, is \$2,000.00. BEM 400, p. 8. Asset eligibility exists when countable assets are less than or equal to the asset limit at least one day during the month being tested. BEM 400, p. 7. Assets include cash, personal property, and real property. BEM 400, pp. 1-2. Personal property includes currency, savings/checking accounts, funeral plans, life insurance policies, and other items. BEM 400. Depending upon the program in question, different policies apply to different items. Petitioner's home is excluded as an asset due to the homestead exemption for SSI-related MA purposes. BEM 400, pp. 34-35. Likewise, Petitioner's funeral plan has also been excluded. BEM 400, pp. 49-55. Petitioner has no cash assets in her bank account after her income was deducted in accordance with policy. BEM 400, pp. 22-23. Finally, Petitioner had a Life Insurance policy with a cash surrender value of \$8,199.85. In SSI-related MA cases, life insurance policies with a cash surrender value are countable assets. BEM 400, pp. 46-47. Therefore, Petitioner's assets were more than quadruple the asset limit in June, July, August, and September 2019 and she was not eligible for SSI-Related MA benefits in these months.

However, the Department failed to issue a HCCDN to Petitioner or her AHR for August 2019 which reflected the reason for her denial of benefits as being related to assets. Instead, the HCCDN indicated that Petitioner was not aged, blind, or disabled as a reason for her ineligibility which is inaccurate based upon the evidence presented and inconsistent with its other decisions. Therefore, the Department has not met its burden of proof as it relates to Petitioner's MA eligibility in August 2019.

Petitioner's AHR argues that due to extenuating circumstances and the Department's failure to inform her of the process to become eligible for MA benefits, an exception should be provided to Petitioner to allow for her eligibility from June 2019 through September 2019. Policy and federal regulations do not provide for an exception in the situations described by Petitioner's AHR. As indicated at the hearing, the Department cannot provide legal advice on how to manage a person's assets. Therefore, the Department properly denied Petitioner's Application for [REDACTED], [REDACTED], and [REDACTED] 2019 based upon excess assets.

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 Application for MA benefits in [REDACTED], [REDACTED], and [REDACTED] 2019 due to excess assets but failed to satisfy its

burden of showing that it acted in accordance with Department policy when it denied Petitioner's Application for [REDACTED] 2019.

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. Redetermine Petitioner's eligibility for MA benefits for August 2019;
2. If otherwise eligible, issue supplements to Petitioner or on her behalf for August 2019; and,
3. Notify Petitioner in writing of its decision.

AMTM/jaf



Amanda M. T. Marler
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
MDHHS-Wayne-82-Hearings
BSC4
D Smith
EQAD

Petitioner

[REDACTED]

Authorized Hearing Rep.

[REDACTED]