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GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: January 23, 2020
MOAHR Docket No.: 19-013070
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 15, 2020, from Detroit, Michigan. Petitioner appeared and was unrepresented. [REDACTED], Petitioner's mother testified on behalf of Petitioner. The Michigan Department of Health and Human Services (MDHHS) was represented by Natalie McLaurin, hearing facilitator. Rollin Carter, hearing facilitator observed the hearing.

ISSUES

The first issue is whether MDHHS properly denied Petitioner's application requesting Medicaid.

The second issue is whether MDHHS properly denied Petitioner's application requesting Medicare Savings Program (MSP) 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 October 11, 2019, Petitioner applied for Medicaid and MSP. Petitioner reported that she is disabled. Exhibit A, pp. 3-16.
2. As of October 11, 2019, Petitioner was the joint owner of a checking, savings, and CD account.

3. On October 16, 2019, MDHHS mailed Petitioner a Verification Checklist (VCL) requesting verification of checking, savings, and CD accounts. The due date for Petitioner to return verification was October 28, 2019.
4. On November 22, 2019, MDHHS denied Petitioner's application requesting Medicaid and MSP, and sent notice to Petitioner.
5. As of November 22, 2019, Petitioner had not returned verification of checking, savings, or a CD account.
6. On [REDACTED], 2019, Petitioner requested a hearing to dispute the denial of Medicaid and MSP benefits.

CONCLUSIONS OF LAW

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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

On December 2, 2019, Petitioner requested a hearing to dispute Medicaid eligibility. Exhibit A, p. 2. As of the date of Petitioner's hearing request, MDHHS had most recently denied an application from Petitioner requesting Medicaid. A Health Care Coverage Determination Notice (HCCDN) dated November 22, 2019, stated that Petitioner's application was denied due to failing to verify assets.

Medicaid is also known as Medical Assistance (MA). BEM 105 (April 2017), p. 1. The Medicaid program includes several sub-programs or categories. *Id.* To receive MA under a Supplemental Security Income (SSI)-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. *Id.* Medicaid eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, MIChild and Healthy Michigan Plan is based on Modified Adjusted Gross Income (MAGI) methodology. *Id.*

Persons may qualify under more than one MA category. *Id.*, p. 2. Federal law gives them the right to the most beneficial category. *Id.* The most beneficial category is the one that results in eligibility, the least amount of excess income or the lowest cost share. *Id.*

At the time she applied for Medicaid on October 11, 2019, Petitioner had no circumstances (e.g. pregnancy, caretaker to minor children...) which would qualify her for Medicaid under a MAGI methodology. Petitioner was a disabled individual who

received Medicare. Petitioner's disability renders her potentially eligible for SSI-Related MA categories.

For SSI-related MA, cash assets are countable. BEM 400 (July 2019) p. 2. An asset must be available to be countable. *Id.*, p. 10. Available means that someone in the asset group has the legal right to use or dispose of the asset. *Id.*

For all programs, MDHHS is to tell the client what verification is required, how to obtain it, and the due date. BAM 130 (April 2017), p. 3. MDHHS is to use the DHS-3503, Verification Checklist (VCL), to request verification. *Id.* MDHHS is to allow the client 10 calendar days (or other time limit specified in policy) to provide the verification that is requested. *Id.*, p. 7. MDHHS is to send a negative action notice when:

- The client indicates refusal to provide a verification, or
- The time period given has elapsed and the client has not made a reasonable effort to provide it. *Id.*

MDHHS mailed Petitioner a Verification Checklist dated October 16, 2019, requesting Petitioner's savings, checking, and CD account information. Exhibit A, pp. 18-19. It was not disputed that Petitioner failed to return requested verification before MDHHS mailed Petitioner notice of Medicaid denial.

Petitioner testified that she is a joint account holder on multiple accounts with her mother. Petitioner also testified that the accounts on which she is a joint holder primarily belong to her mother, and not to her. Thus, Petitioner contended that she should not have to verify accounts which belong to someone else.

Jointly owned assets have more than one owner. BEM 400 (July 2019) p. 7. For jointly-owned cash accounts, MDHHS is to count the entire amount, unless the person claims and verifies a different ownership. *Id.* Then, each owner's share is the amount they own. *Id.*

Petitioner's argument concerning jointly-owned assets is not applicable to the present case. If MDHHS denied Petitioner's application due to excess assets, Petitioner would be entitled to present evidence verifying that she is not the owner of cash in the accounts and that MDHHS erred in determining her asset-eligibility; MDHHS did not deny Petitioner's application for that reason. MDHHS denied Petitioner's application due to a failure to return account verifications. As a joint-owner on the accounts, Petitioner was required to return verification regardless of whose money was primarily in the accounts. Thus, Petitioner's argument that she did not need to return verification was not persuasive.

The evidence established that MDHHS properly requested verification of Petitioner's jointly-held assets and that Petitioner failed to timely return verification. Thus, MDHHS properly denied Petitioner's application requesting Medicaid.

Petitioner also expressed a dispute over a denial of MSP. The HCCDN dated November 22, 2019, stated that Petitioner was denied MSP also due to a failure to verify assets.

MSP programs offer three different degrees of assistance with payment toward a client's Medicare premium and deductibles. Qualified Medicare Beneficiaries (QMB) coverage pays for a client's Medicare premiums, coinsurances, and deductibles. BEM 165 (January 2018), p. 2. Specified Low Income Beneficiaries (SLMB) coverage pays for a client's Medicare Part B premium. *Id.* Additional Low Income Beneficiaries (ALMB) coverage pays for a client's Medicare Part B premium if MDHHS funding is available. *Id.* Medicare Savings Programs are SSI-related MA categories. *Id.*, p. 1.

As MSP is an SSI-Related program, the above analysis justifying denial of Petitioner's eligibility for SSI-related Medicaid is applicable to denial of Petitioner's eligibility for MSP. Thus, MDHHS also properly denied Petitioner's request for MSP.

It should be noted that Petitioner testified that she is disabled and in dire need of Medicaid. Additionally, Petitioner testified that her previous Medicaid eligibility authorized her for transportation assistance to medical appointments. Under the circumstances, Petitioner is encouraged to reapply for Medicaid. To combat a denial for excess assets, it would be in Petitioner's interest to submit any available evidence verifying that monies held in jointly-held do not belong to Petitioner.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly denied Petitioner's application dated October 11, 2019, requesting Medicaid and MSP. The actions taken by MDHHS are **AFFIRMED**.

CG/cg



Christian Gardocki

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-Saginaw-Hearings
D. Smith
EQAD
BSC2- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

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