



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: February 28, 2020
MOAHR Docket No.: 19-013425
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 February 6, 2020, from Detroit, Michigan. Petitioner appeared and was unrepresented. [REDACTED] Petitioner's sister, testified on behalf of Petitioner. The Michigan Department of Health and Human Services (MDHHS) was represented by Tamia McGlothlin, hearing facilitator.

ISSUES

The first issue is whether MDHHS properly terminated Petitioner's SSI-Related Medicaid eligibility due to excess assets.

The second issue is whether MDHHS properly terminated Petitioner's Medicare Savings Program (MSP) eligibility 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 October 4, 2019, MDHHS mailed Petitioner a Redetermination for Petitioner's SSI-Related Medicaid and MSP eligibility.
2. On November 4, 2019, Petitioner returned to MDHHS her Redetermination form. On her Redetermination form, Petitioner reported receiving inheritances of \$120,000 and \$23,121.84 from a 401k. Petitioner also submitted documentation of a bank statement from June 2019 listing a balance exceeding \$23,000 and various documents related to a home purchase. Petitioner also reported that she

spent both inheritances on credit card debt, repayment of loans, a home purchase, and various other purchases.

3. On November 20, 2019, MDHHS terminated Petitioner's Medicaid and MSP eligibility beginning January 2020 due to excess assets. The determination counted Petitioner's 401k inheritance of \$23,000 as an asset.
4. As of November 20, 2019, MDHHS did not mail Petitioner a Verification Checklist (VCL) requesting updated verification of Petitioner's account balances.
5. On [REDACTED] 2019, Petitioner requested a hearing to dispute the termination 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).

Petitioner requested a hearing to dispute terminations to her Medicaid and MSP eligibility. Exhibit A, pp. 3-4. A Health Care Coverage Determination Notice dated November 20, 2019, stated that Petitioner's eligibility for both programs would end January 2020 due to excess assets. Exhibit A, pp. 32-35.

Petitioner's asset-eligibility for Medicaid hinges on the categories for which she was eligible to receive Medicaid. A discussion of Medicaid categories is appropriate for the analysis.

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.*

As of the disputed benefit month, Petitioner was a recipient of Medicare, over 65 years of age, not pregnant, and not a caretaker to minor children. Given her circumstances, she was only potentially eligible for Medicaid under an SSI-Related category. Also, MSP is an SSI-Related Medicaid category. BEM 165 (October 2018) p. 1

Assets must be considered in determining eligibility for SSI-related MA categories. BEM 400 (December 2019) p. 1. For SSI-Related MA, all types of assets, including cash are considered. *Id.*, p. 3. Thus, assets are relevant to determining Petitioner's Medicaid and MSP eligibility.

As of the disputed benefit month, Petitioner was not married. The SSI-Related MA asset limit for an unmarried individual is \$2,000. *Id.*, p. 8. For MSP, the asset limit for an unmarried individual is \$7,730. *Id.*, p. 7.

Petitioner's Medicaid and MSP benefits were scheduled for redetermination beginning January 2020. As part of the redetermination process, Petitioner timely returned a Redetermination form to MDHHS on November 4, 2019. Exhibit A, pp. 6-13. On her Redetermination, Petitioner reported receipt of a traditional \$120,000 inheritance and an additional \$23,181.84 inheritance from a 401k. Petitioner also reported that she spent all of her inheritance monies; her reported expenditures included a new home, furniture, credit card debt, and payments to her sister for past loans.

Petitioner submitted asset verifications with her Redetermination form. Petitioner's documentation included a checking statement from June 2019 listing a balance exceeding \$23,000 (Exhibit A, p. 14), a letter stating that a vehicle was transferred to Petitioner (Exhibit A, p. 15), a copy of a cashier's check for \$120,000 (Exhibit A, p. 16), a mortgage statement (Exhibit A, p. 17), a property listing (Exhibit A, p. 18), a closing statement from a home purchase (Exhibit A, p. 21), and a receipt for moving expenses (Exhibit A, p. 22). MDHHS accepted Petitioner's documents as verification that she spent her \$120,000 inheritance, and therefore, this was not counted as an asset. MDHHS did not accept the documents as verification that Petitioner spent her inheritance from a 401k.

With her Redetermination form, Petitioner also returned screen dumps listing updated balances of the account which held her 401k balance. Exhibit A, pp. 23-28. In compliance with BEM 400, MDHHS properly rejected the documents as they did not list Petitioner's name, account number, or bank name. MDHHS was left with no acceptable verification that Petitioner spent her 401k assets.

For all programs, the MDHHS database sends a Verification Checklist to request verifications that are not returned with a Redetermination. BAM 210 (April 2019) pp. 17-18. MDHHS is to allow a full 10 calendar days from the date the verification is requested to provide all documents and information. *Id.*, p. 16. MDHHS is to give timely notice of the negative action if the time limit is not met. *Id.*, p. 17.

After rejecting Petitioner's rejected bank statement as acceptable verification of spending her 401k inheritance, MDHHS used Petitioner's June 2019 bank statement to justify counting over \$23,000 in assets. As Petitioner reported that she spent the money, budgeting the assets was erroneous. Instead, MDHHS should have mailed Petitioner a VCL requesting an updated bank statement for the accounting which held Petitioner's 401k inheritance. MDHHS testimony acknowledged that no such VCL was mailed.

The failure by MDHHS to request verification of an updated bank statement from Petitioner is reversible error. Petitioner's remedy is reinstatement of her MA and MSP eligibility.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly terminated Petitioner's Medicaid and MSP benefits. MDHHS is ordered to commence the following actions within 10 days of the date of mailing of this decision:

- (1) Reinstate Petitioner's Medicaid and MSP benefits beginning January 2020;
- (2) Process Petitioner's redetermination of Medicaid and MSP, subject to the finding that MDHHS failed to request an updated bank statement for the account which held Petitioner's 401k inheritance.

The actions taken by MDHHS are **REVERSED**.

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-Kent-1-Hearings
D. Smith
EQAD
BSC3- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

[REDACTED]
MI [REDACTED]