



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: February 3, 2020
MOAHR Docket No.: 19-013479
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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, an in-person hearing was held on January 30, 2020, from Cheboygan, Michigan. The Petitioner was represented by himself. Petitioner's mother ██████████ appeared but did not testify. The Department of Health and Human Services (Department) was represented by Kari Gingrich, Eligibility Specialist, who appeared and testified. Department Exhibit 1, pp. 1-32 was received and admitted. Petitioner Exhibit A, pp. 1-10 was received and admitted.

ISSUE

Did the Department properly close Petitioner's Medical Assistance- Freedom to Work (MA-FTW) benefits 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. Petitioner was a recipient of MA-FTW benefits.
2. Petitioner was added as a joint owner to his mother's bank account in October 2018.
3. In April 2019, the Department received information about Petitioner's ownership interest in his mother's account via asset detection. (Ex. 1, p.3)
4. On December 9, 2019, a Health Care Coverage Determination Notice was sent to Petitioner informing him that his MA-FTW would close effective January 1, 2019, due to excess assets. (Ex. 1, pp. 5-8)

5. On December 16, 2019, Petitioner requested a hearing contesting the closure of MA-FTW.

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.

For Freedom to Work (BEM 174) The asset limit for the initial eligibility determination is set to the current asset limit for a group of one in the Medicare Savings Program (listed below). Once eligibility for FTW has been established the countable asset limit increases to \$75,000 for ongoing Medicaid. BEM 400

An asset must be available to be countable. **Available** means that someone in the asset group has the legal right to use or dispose of the asset. BEM 400

In this case, Petitioner was added to his mother's bank account as a joint owner prior to her having surgery. Petitioner had the legal right to dispose of the money in the bank account and it was properly deemed to be a countable asset for Petitioner. The value of the account was \$91,023 and the asset limit for MA-FTW was \$75,000. Therefore, Petitioner was over the asset limit and it was proper and correct for the Department close Petitioner's MA-FTW case due to excess assets. BEM 400.


Petitioner has subsequently had his name taken off his mother's bank account and has put a power of attorney in place. Petitioner was advised to reapply for MA-FTW and his eligibility would be determined based on his current circumstances.

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 closed Petitioner's MA-FTW benefit due to excess assets.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

AM/nr



Aaron McClintic
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

Christina Chamberlain
827 S Huron St.
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49721

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Petitioner

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