



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 4, 2020  
MOAHR Docket No.: 19-013612  
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 31, 2020 from Detroit, Michigan. The Petitioner was represented by his Guardian, daughter, and Authorized Hearings Representative (AHR) [REDACTED]. The Department of Health and Human Services (Department) was represented by Patty Holihan, Eligibility Specialist.

### **ISSUE**

Did the Department properly deny Petitioner's Application for Medical Assistance (MA) Program benefits based upon excess assets for July 2019 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. On [REDACTED], 2019, the Department received Petitioner's Application and Retroactive Application for MA benefits from his AHR.
2. On October 8, 2019, the Department issued a Verification Checklist (VCL) to Petitioner at AHR's address to verify a Citizens Bank account ending in 9249 by providing a "complete bank statement from July 2019 to present" by October 18, 2019.
3. On October 17, 2019, the Department provided an extension VCL to Petitioner at AHR's address to verify assets with a new due date of October 28, 2019.

4. As of October 23, 2019, the Department had not received the full bank statements for the Citizens Bank account ending 9249.
5. As of the same day, the only information available to the Department was that as of October 17, 2019, two withdrawals in the amounts of \$2,189.50 and \$2,506.77 had been made from the account ending in 9249 bringing the new balance to \$0.00.
6. On the same day, the Department issued a Health Care Coverage Determination Notice (HCCDN) to Petitioner at AHR's address notifying them that Petitioner was not eligible for MA benefits between July 2019 and September 2019 due to excess assets, but that he was eligible for MA benefits beginning October 1, 2019, ongoing with a Patient Pay Amount of \$2,009.00.
7. On December 16, 2019, the Department received Petitioner's request for hearing from his AHR disputing the Department's denial of MA benefits for July 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 denial of Petitioner's MA Application from July 2019 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, he may be eligible for SSI-Related MA benefits. The SSI-related MA asset limit for a group size of one, because no evidence was presented that Petitioner is 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. The Department is required to verify the value of countable assets at application, redetermination, and when there is a reported change. BEM 400, p. 62. In addition, an asset is considered countable and available during periods in which a guardian or conservator is being sought. BEM 400, p. 10.

Petitioner's AHR disputes the Department's consideration of the [REDACTED] Account ending in 9249 for the months between July and September 2019 because she was not aware of the account and did not have access to the account until after the Department brought it to her attention. However, Wayne County Probate Court records show that AHR must have had some idea of the existence of the account in early August 2019 because the money and account in question were the subject of a hearing when the previous conservator was ending her relationship with Petitioner. Furthermore, lack of knowledge of an account is not sufficient justification or an exception to the rule that the assets should be counted. The assets in [REDACTED] account ending in 9249 were assets belonging to Petitioner which were accessible to his old conservator and made available to AHR upon conclusion of the Wayne County Probate Court proceedings. Based upon all available information, the account had more than \$2,000.00 in available cash assets which must be counted for determining SSI-related MA eligibility. Since he had more than \$2,000.00 available, his assets were over the asset limit and Petitioner is not eligible for MA benefits in July, August, and September 2019.

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 retroactive MA application for July, August, and September 2019.

### **DECISION AND ORDER**

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

AMTM/jaf



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**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**

Kelly Sutherland  
MDHHS-Livingston-Hearings  
BSC4  
D Smith  
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**Petitioner**

[REDACTED]  
MI

**Authorized Hearing Rep.**

[REDACTED]  
MI