



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: July 21, 2020
MOAHR Docket No.: 20-003573
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 three-way hearing was held on July 9, 2020, from Clawson, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Nashanita Crawford, Eligibility Specialist.

ISSUE

Did the Department properly deny the Petitioner's application for Medical Assistance (MA) 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 applied for MA on [REDACTED], 2020.
2. On February 27, 2020 the Department issued a Health Care Coverage Determination Notice which found Petitioner not eligible for Ma due to excess assets that exceeded the asset limit effective January 1, 2020. The Notice also was unclear and indicated that Petitioner was eligible for Medicare Savings Program with a new case number and that she would receive a letter showing the approved benefit with new case number. No such letter was provided at the hearing.
3. The Petitioner provided a checking account statement for her Citizens Bank account showing a balance of \$ [REDACTED] and showed deposits only for the months

of January 2020 and February 2020 but no daily balances. The Petitioner also indicated in writing on the one page summary of the account that all checks had not cleared and includes money saved each month to cover summer and winter taxes. Exhibit A, p. 9

4. The Petitioner requested a timely hearing on March 10, 2020 protesting the denial of her MA application.

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, the Department denied the Petitioner's application for medical assistance due to her checking account balance being above the \$2,000.00 MA asset limit for an MA group of one person. The Department did not present the Verification Checklist that it sent to Petitioner so it could not be determined what the Department sought for verification of bank account assets. The document provided by the Department was a one page summary of deposits only and a bank balance based on the date of the information was accessed by Petitioner on February 6, 2020. The information provided was a one page snapshot of the account and did not consider or show whether the Petitioner account balance fell below the \$2,000.00 asset limit for any day during the month being reviewed for eligibility. The Department witness, Ms. Crawford testified that the Department should have sought the checking account statement so it could properly determine whether the account balance fell below \$2,000 during the month. BEM 400 (January 2020), pp. 7-9

Department policy allows the Department to find asset eligibility for MA if at any time during the month the asset limit is met. BEM 400 provides:

Asset eligibility exists when the asset group's countable assets are less than, or equal to, the applicable asset limit at least one day during the month being tested. BEM 400 (January 2020), p. 7.

The Department presented no evidence that it sought to determine if the asset limit for Petitioner's checking account was met on any day during the month of February 2020. The Department, based upon the evidence presented did not meet its burden to demonstrate that it properly verified information regarding assets for an MA application, and thus failed to establish that it complied with Department policy. The Department hearing representative admitted that the Petitioner's actual checking account statement should have been requested and reviewed before the application was denied based on the information provided.

The one page statement indicated that it was a checking account and there were checks awaiting clearing in a hand written note on the face of the document. In addition, there could be no determination made by the Department as to the daily balances and none were before the department for review. No evidence was presented to establish that the Department made any effort to resolve the hand written discrepancy appearing on the face of the Petitioner's one page summary dated February 6, 2020. Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130 (April 2017), p. 1. Given the evidence presented the Department did not meet its burden to establish that it complied with Department policy in BAM 130 when reviewing the verification of assets.

BAM 130 requires that the Petitioner be allowed to explain any discrepancy:

Before determining eligibility, give the client a reasonable opportunity to resolve any discrepancy between his statements and information from another source. BAM 130, (April 2017), p. 9

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied the Petitioner's MA application due to excess assets.

DECISION AND ORDER

Accordingly, the Department's decision is

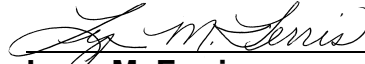
REVERSED.

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. The Department shall re register the Petitioner's [REDACTED], 2020 MA application and process the application to determine eligibility of Petitioner for MA and seek proper verification of bank account statements showing daily balances for the month being tested.

- The Department shall provide the Petitioner a written copy of its eligibility determination.

LMF/



Lynn M. Ferris
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-Wayne-31-Hearings
BSC4 Hearing Decisions
EQAD
D. Smith
MOAHR

Petitioner – Via First-Class Mail:


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