



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: August 12, 2020
MOAHR Docket No.: 20-004521
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, telephone hearing was held on August 5, 2020, from Lansing, Michigan. [REDACTED] appeared on behalf of Petitioner. The Department was represented by Shannon Louisignau.

ISSUE

Did the Department of Health and Human Services (Department) properly denied Petitioner's application for retroactive Medical Assistance (MA)?

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] [REDACTED] [REDACTED] the Department received Petitioner's application for Medical Assistance (MA). The application was signed by Petitioner and indicated that [REDACTED] [REDACTED] assisted Petitioner with the application. Exhibit A, pp 20-31.
2. On [REDACTED] [REDACTED] [REDACTED] the Department received an application for retroactive Medical Assistance (MA) for January, February, and March of 2020. The application was not registered because it was not signed. Exhibit A, pp 17-19.
3. On [REDACTED] [REDACTED] [REDACTED] the Department received Petitioner's updated application for retroactive Medical Assistance (MA) that was signed by Petitioner. Exhibit A, pp 17-19.
4. Petitioner reported having cash assets exceeding \$ [REDACTED] in each month from January through March of 2020.

5. On April 28, 2020, the Department notified Petitioner that she was eligible for Medical Assistance (MA) with a \$1,171 monthly patient pay amount effective April 1, 2020. Exhibit A, pp 15-16.
6. On May 28, 2020, the Department notified Petitioner that she was eligible for Medical Assistance (MA) with a \$1,172 monthly patient pay amount effective July 1, 2020. Exhibit A, pp 11-14.
7. On [REDACTED] [REDACTED] [REDACTED] the Department received Petitioner's request for a hearing, which was signed by Petitioner. Exhibit A, pp 3-5.
8. On June 19, 2020, the Department notified Petitioner that she was not eligible for Medical Assistance (MA) effective July 1, 2020. Exhibit A, pp 6-10.

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.

The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received anywhere in DHS within the 90 days. Department of Human Services Bridges Administrative Manual (BAM) 600 (January 1, 2020), pp 6-7.

The appointment of an AHR must be made in writing. An AHR must be authorized or have made application through probate court before signing a hearing request for the client. Verify the AHR's prior authorization unless the AHR is the client's attorney at law, parent or, for MA only, spouse. Relationship of the parent or spouse must be verified only when it is questionable. BAM 600, p 2-3.

On [REDACTED] [REDACTED] [REDACTED] the Department received Petitioner's application for MA benefits. The application was signed by Petitioner and indicated that [REDACTED] [REDACTED] assisted her with the application. The application did not indicate that [REDACTED] [REDACTED] was acting as Petitioner's authorized representative, or that [REDACTED] [REDACTED] held power of attorney over Petitioner's affairs. On [REDACTED] [REDACTED] [REDACTED] the Department received Petitioner's request for a hearing, which was signed by Petitioner. It was not disputed that Petitioner passed away on or around [REDACTED] [REDACTED] [REDACTED]. No evidence was presented during the hearing that [REDACTED] [REDACTED] was appointed as personal representative over Petitioner's estate by a probate court.

Therefore, [REDACTED] [REDACTED] has no authority to act as Petitioner's authorized hearing representative and Petitioner's request for a hearing must be dismissed.

However, in the alternative, if Petitioner is found to be entitled to an administrative hearing protesting her eligibility for MA benefits, the hearing record supports a finding that Department was acting in accordance with policy when it denied MA benefits from January 1, 2020, through March 31, 2020.

Assets means cash, any other personal property and real property. Real property is land and objects affixed to the land such as buildings, trees and fences. Condominiums are real property. Personal property is any item subject to ownership that is not real property. Countable assets cannot exceed the applicable asset limit. An asset is countable if it meets the availability tests and is not excluded. Available means that someone in the asset group has the legal right to use or dispose of the asset. Department of Human Services Bridges Eligibility Manual (BEM) 400 (July 1, 2020), pp 1-7.

The asset limit for a household of one over 64-years of age to receive MA benefits is \$2,000. BEM 400, pp 8-9.

On [REDACTED] [REDACTED] [REDACTED] the Department received Petitioner's signed application for retroactive MA benefits for January through March of 2020. The hearing record supports a finding that Petitioner's countable cash assets exceeded the limit for a single person over 64 years of age. Therefore, the Department denied Petitioner's application for retroactive MA benefits.

[REDACTED] [REDACTED] testified that Petitioner did not pay for her long-term medical care because she thought that they would be covered by Medicare. [REDACTED] [REDACTED] did not dispute that Petitioner's countable assets exceeded the limit, but that if Petitioner had paid the medical expenses she had incurred from January through March, then her countable cash assets would have been below the asset limit. [REDACTED] [REDACTED] testified that she was not informed that Petitioner's care would be subject to a patient pay amount.

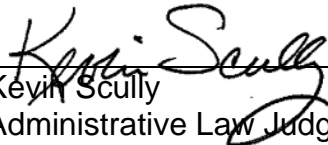
However, the Department has no duty to provide clients with estate planning advice. The hearing record supports a finding that Petitioner was not eligible for MA benefits from January through March of 2020, due to her countable [REDACTED]. Further, as a person assisting with an application and not the authorized representative, Ruth [REDACTED] was not entitled to notice of the patient pay amount.

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 retroactive Medical Assistance (MA) from January 1, 2020, through March 31, 2020.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

KS/nr



Kevin Scully
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

Patricia Marx (Benzie)
448 Court Place
Govt. Center
Beulah, MI
49617

Benzie County DHHS- via electronic mail

BSC2- via electronic mail

D. Smith- via electronic mail

EQAD- via electronic mail

Petitioner

[REDACTED] - via first class mail
[REDACTED], MI
[REDACTED]