



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]
[REDACTED]

Date Mailed: October 7, 2020
MOAHR Docket No.: 20-004965
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 hearing was held on September 28, 2020, via telephone conference. The hearing was held at least 30 minutes after the scheduled time. Petitioner did not participate. [REDACTED], Petitioner's authorized hearing representative (AHR), testified and represented Petitioner. The Michigan Department of Health and Human Services (MDHHS) did not participate in the hearing.

ISSUE

The issue is whether MDHHS properly terminated Petitioner's Medicaid and Medicare Savings Program (MSP) eligibility.

FINDINGS OF FACT

The administrative law judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. As of May 2020, Petitioner was an ongoing recipient of Medicaid and MSP.
2. On June 25, 2020, MDHHS terminated Petitioner's Medicaid and MSP eligibility beginning June 2020 due to excess assets.
3. On [REDACTED], 2020, MDHHS received Petitioner's hearing request disputing the termination of Medicaid and MSP.

4. On September 28, 2020, an administrative hearing was held in which MDHHS did not present evidence justifying Medicaid or MSP termination.

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. MDHHS 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 of Medicaid and MSP benefits beginning June 2020. Exhibit A, pp. 29-30. Before the hearing, MDHHS sent a hearing packet alleging that Petitioner's Medicaid and MSP benefits properly closed due to Petitioner's excess assets

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.*

Assets must be considered in determining SSI-Related Medicaid eligibility. BEM 400 (October 2018) p. 1 and 6. SSI-Related Medicaid eligibility considers all assets. *Id.*, p. 3. Countable assets include cash. *Id.*, p. 2. For a single-person SSI-Related Medicaid group, the asset limit is \$2,000. *Id.*, p. 9. For a single-person MSP group, the asset limit is \$7,860. *Id.*, p. 6. There is no asset test for MAGI-related Medicaid categories. *Id.*, p. 3. For purposes of this decision, it will be assumed that Petitioner is a single-person SSI-Related group and subject to asset limits.

As MDHHS did not participate in the hearing, no evidence was admitted which would justify a termination of Medicaid and/or MSP due to excess assets. Without evidence that Petitioner had excess assets, the termination of Medicaid and MSP must be reversed. As a remedy, Petitioner is entitled to a reinstatement of benefits, though this decision does not prohibit MDHHS from later terminating Petitioner's eligibility if she is determined to be ineligible due to assets.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS failed to establish that Petitioner had excess assets for Medicaid and MSP. It is ordered that MDHHS initiate the following actions within 10 days of the date of mailing of this decision:

- (1) Reinstatement of Petitioner's Medicaid and MSP benefits, effective June 2020 subject to the finding that MDHHS failed to establish Petitioner's benefit ineligibility; and
- (2) Issue notice and benefits in accordance with policy.

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

CG/tm



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-Washtenaw-20-Hearings
D. Smith
EQADHearings
BSC4
MOAHR

Via First Class Mail:
Petitioner

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Petitioner Authorized Hearing Rep.

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