



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: January 6, 2021  
MOAHR Docket No.: 20-005719  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Colleen Lack

**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 October 29, 2020. The Petitioner was represented by [REDACTED], Sister, Power of Attorney, and Authorized Hearing Representative. The Department of Health and Human Services (Department) was represented by Rachelle Nogueira, Family Independence Manager (FIM), and Melia Panduren, Eligibility Specialist (ES).

During the hearing proceeding, the Department’s Hearing Summary packet was admitted as Exhibit A, pp. 1-73.

**ISSUE**

Did the Department properly determine Petitioner’s eligibility for 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] a DHS-4574 Long Term Care Application was submitted for Petitioner. Retroactive MA was also requested for February, March, and April 2020<sup>1</sup>. (Exhibit A, pp. 2 and 13-21)

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<sup>1</sup> On the DHS-3243 Retroactive Medicaid Application, MA was requested for January, February, and March 2020. However, MA eligibility can only be requested for the three months prior to the application month. For the [REDACTED], 2020 MA application, retroactive MA could only be considered for February, March, and April 2020.

2. In part, the informational pages with this application advised that the asset limit would be \$2,000.00. (Exhibit A, p. 17)
3. On May 21, 2020, a DHS-3227 Tentative Patient Pay Amount Notice was issued (Exhibit A, p. 22)
4. Petitioner's bank account balance exceeded [REDACTED] during the entire month of March 2020. (Exhibit A, pp. 26 and 30)
5. On June 24, 2020, Petitioner was approved for MA benefits for February 2020, April 2020, and ongoing. However, March 2020 was denied because Petitioner exceeded the asset limit that month. (Exhibit A, pp. 2 and 7-8; ES Testimony)
6. On June 24, 2020, the ES spoke with Petitioner's sister by phone regarding the MA eligibility determination. (Exhibit A, pp. 2 and 7; ES Testimony)
7. On June 24, 2020, a Health Care Coverage Determination Notice was issued. (Exhibit A, pp. 7-11)
8. On June 25, 2020, the ES called Petitioner's sister and left voicemail (Exhibit A, p. 2; ES Testimony)
9. On, July 22, 2020, Petitioner filed a hearing request contesting the Department's determination. (Exhibit A, pp. 4-6)

### **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.

Asset eligibility is required for G2U, G2C, RMA, and SSI-related MA categories. 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. The asset limit for the SSI-related MA category applicable Petitioner is \$2,000 for an asset group of one. BEM 400, April 1, 2020, pp. 6-9.

In this case, there was no dispute that Petitioner's assets exceeded the \$2,000.00 limit in March 2020. Rather, Petitioner's sister asserted that she was not advised of the asset limit before June 7, 2020, when she received the MI Health Card. If she had known, she would have written a check to the long-term care facility to keep the balance under the limit. Petitioner's sister was waiting for a letter to say Petitioner is on Medicaid, then she would have taken care of the situation. Petitioner's sister requested an exception be made to allow for March 2020 MA coverage for Petitioner. (Exhibit A, p. 5; Sister Testimony)

The ES noted that prior applications in June 2017 and November 2018 were denied due to assets. (Exhibit A, p. 2; ES Testimony) It is not known whether Petitioner's sister was assisting Petitioner with her affairs at that time. There was a [REDACTED] application for MA that Petitioner's sister was assisting with. That application was denied based on a failure to return verifications. (Exhibit A, p. 2; ES Testimony) However, there is no jurisdiction to review the Department's determinations from those applications based on the July 22, 2020 hearing request. Pursuant to BAM 600, a hearing request must be filed within 90 days of the notice of case action. BAM 600, January 1, 2020, p. 6.

At issue for this case is the determination from the [REDACTED] 2020 application for MA. The DHS4574 Long Term Care Application was submitted for Petitioner. (Exhibit A, pp. 2 and 13-21) In part, the informational pages with this application advised that the asset limit would be \$2,000.00. (Exhibit A, p. 17) Accordingly, the DHS4574 Long Term Care Application form itself provided notice of the asset limit.

This ALJ must review the Department's determination under the applicable policies and has no authority to change or make an exception to Department policy. Ultimately, there is no dispute that Petitioner's assets exceeded the \$2,000.00 limit for March 2020. Therefore, Petitioner's sister's request for an exception must be denied and the denial of MA for March 2020 must be upheld because Petitioner's assets exceeded the limit for that month.

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 determined Petitioner's eligibility for MA.

**DECISION AND ORDER**

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

CL/ml



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**Colleen Lack**  
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**

Pam Assemany  
St. Clair County DHHS – via electronic  
mail

BSC2 – via electronic mail

D. Smith – via electronic mail

EQAD – via electronic mail

**Authorized Hearing Rep.**

██████████ – via first class mail

██████████  
██████████ MI ██████████

**Petitioner**

██████████ – via first class mail

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██████████ MI ██████████