



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

██████████
██████████
██████████, MI ██████████

Date Mailed: February 4, 2021
MOAHR Docket No.: 20-007225
Agency No.: ██████████
Petitioner: ██████████

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, a telephone hearing was held on January 12, 2021. Petitioner was represented by his authorized hearing representative ██████████. The Department was represented by Susan Forman.

ISSUE

Did the Department of Health and Human Services (Department) properly deny Petitioner's application 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 ██████████, 2020, the Department received Petitioner's application for Medical Assistance (MA). Exhibit A, pp 5-8.
2. Petitioner was born on ██████████, 1932. Exhibit A, p 5.
3. On July 27, 2020, the Department received verification of a life insurance policy held by Petitioner that had a \$11,050.42 cash surrender value. Exhibit A, p 12.
4. On September 11, 2020, the Department notified Petitioner that he was not eligible for Medical Assistance (MA) benefits. Exhibit A, pp 14-16.
5. On November 10, 2020, the Department received Petitioner's request for a hearing protesting the denial of his application for Medical Assistance (MA). Exhibit A, pp 3-4.

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 through 42 USC 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 through 42 CFR 420.25. The Department administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.103 through MCL 400.112k of the Social Welfare Act, MCL 400.1 *et seq.*

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 an individual over 64-years of age is \$2,000. BEM 400, p 9.

On [REDACTED], 2020, the Department received Petitioner's application for MA benefits. Petitioner provided the Department with verification of his countable assets. Among those assets was a life insurance policy with a cash surrender value exceeding \$2,000. This asset alone made Petitioner ineligible for Medicaid. Therefore, the Department notified Respondent that his application had been denied because he was ineligible for MA benefits based on his countable assets.

Petitioner's representative testified that she was not properly advised by Petitioner's caseworker about he could become eligible for MA benefits. Petitioner's representative testified that Petitioner would have taken steps to reduce his countable assets sooner if the Department had processed the application for assistance within the reasonable standards of processing outlined in Department policy.

However, the Department is not expected to provide estate planning or determine the effect on eligibility of proposed financial arrangements. Department of Health and Human Services Bridges Administrative Manual (BAM) 105 (July 1, 2020), p 14.

Further, even though Petitioner's eligibility for MA benefits was not determined in a reasonable period of time due to staff shortages, this does not change the fact that Petitioner possessed countable assets exceeding the limit to receive MA benefits.

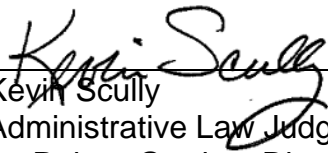
There is no entitlement to MA benefits that Petitioner is not eligible for, and the hearing record supports a finding that Petitioner was not eligible for MA benefits due to excess assets. Administrative Law Judges have no authority to make exceptions to Department policy set out in the program manuals.

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 [REDACTED], 2020, application for Medical Assistance (MA) benefits.

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

Alison Gordon
430 Barfield Drive
Hastings, MI
49058

Barry County DHHS- via electronic mail

BSC3- via electronic mail

C. George- via electronic mail

EQAD- via electronic mail

Petitioner

██████████ - via first class mail

██████████

██████████ MI

██████████

Authorized Hearing Rep.

██████████ - via first class mail

██████████

██████████ MI

██████████