



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]

Date Mailed: June 2, 2021
MOAHR Docket No.: 21-001463
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 telephone hearing was held on May 3 2021, from Bloomfield Hills, Michigan. The Petitioner was represented by [REDACTED]. His spouse [REDACTED] also appeared at the hearing. The Department of Health and Human Services (Department) was represented by Robin Reece, Assistance Payments Supervisor.

ISSUE

Did the Department properly deny the Petitioner's application for Medical Assistance and retroactive Medical Assistance Application?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Petitioner applied for Medical Assistance (MA) on [REDACTED] 2021. The Petitioner also was married and living with [REDACTED] his wife. Exhibit A, p. 54
2. Petitioner also applied for retroactive MA on [REDACTED] 2021 for the months of October 2020 and November 2020. Exhibit A, pp. 48-50.
3. The Department sent Petitioner a Verification Checklist on March 8, 2021 with a due date of March 18, 2021 requesting that Petitioner provide proof of current checking account statement and complete a DHS 20 verification of Assets, a verification of an insurance policy and verification of [REDACTED] 401 K. Exhibit A, pp. 46-47.

4. On March 23, 2021, the Department issued a Health Care Coverage Determination Notice advising the Petitioner that [REDACTED] and [REDACTED] were not eligible for MA due to countable assets is being higher than allowed for this program. Exhibit A, p. 7.
5. At the time of the application the Petitioner's wife had a 401K account with a value of \$27,196.23 as of March 12, 2021. Exhibit A, p. 20.
6. The Petitioner requested a timely hearing on March 22, 2021 protesting the Department's actions.

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 MA and retro MA due to Petitioner's MA group having excess assets at the time of the MA application on [REDACTED] 2021. The Department when determining eligibility for MA must determine the amount of the MA group assets. Assets are defined as cash, personal property and real property. BEM 400, p. 1-2. Countable assets cannot exceed the applicable asset limit for the group size. For MA for 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 on day during the month being tested. BEM 400 (January 2021) , p. 7. The asset limit for a group of two at the time of the Petitioner's MA application was \$3,000.00. BEM 400, p.9.

The Petitioner asserted at the hearing that the Petitioner's spouse's 401K was not an asset because she could not touch it. However, there was no proof that the 401K amount shown on the verification submitted by Petitioner indicates that on March 22, 2021 the value of the 401K funds was not \$27,196.23. Just because an applicant would be financially disadvantaged if they withdrew funds from a 401K does not mean the asset is not countable based on its value. Clearly, based upon the amount of the 401K alone, the Petitioner was over the asset limit. BEM 400 provides that the value of

a retirement plan including a 401K is the amount of money the person can currently withdraw from the plan. Any early withdrawal penalty must be deducted from the value of the asset. BEM 400, p. 28.

Finally, the Petitioner's spouse said she did not apply for MA for herself, notwithstanding the application listed her as requesting MA, whether she sought MA or not when an adult () is applying for MA, the fiscal and asset group is the adult applicant and his or her spouse, thus making the MA group size for assets a group of 2 persons. BEM 211, (July 2019) p. 8.

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 the Petitioner's application for MA and retro MA.

DECISION AND ORDER

Accordingly, the Department's decision is

AFFIRMED.

LF/



Lynn M. Ferris
Administrative Law Judge
for Elizabeth Hertel, 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-Oakland-DistrictII-Hearings
BSC4-HearingDecisions
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C. George
MOAHR

Petitioner- Via USPS:

