



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]

Date Mailed: July 2, 2021
MOAHR Docket No.: 21-002279
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Landis Lain

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 June 23, 2021, from Lansing, Michigan. The Petitioner was represented by Authorized Hearings Representative [REDACTED]. The Department of Health and Human Services (Department or Respondent) was represented by Danielle Shanley, Family Independence Specialist.

Department's Exhibit A pages 1-18 were admitted as evidence.

ISSUE

Did the 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 [REDACTED] 2021, Petitioner's legal guardian applied for Medical Assistance (MA) benefits on behalf of Petitioner.
2. On February 15, 2021, a health Care Coverage Supplemental Questionnaire was turned into DHHS reporting Petitioner's bank account balance of [REDACTED].
3. On March 16, 2021, a DHS 3503 Verification Checklist was mailed to the legal guardian requesting current bank account statements for Petitioner.

4. On March 24, 2021, a bank statement from [REDACTED] was turned in with a statement date of 01/15/21 and a balance of [REDACTED]
5. On the same date another bank statement was turned in from [REDACTED] with a balance of [REDACTED] and a statement date of 03/09/21.
6. Per BEM 400 the asset limit for a group size of 1 and SSI Related Medicaid Category is \$2,000.00.
7. On March 25, 2021, the Department denied Petitioner's MA application due to excess assets.
8. On April 22, 2021, Petitioner's Representative filed a Request for Hearing to contest the Department's Negative action.
9. On April 30, 2021, a prehearing conference was held.
10. On May 5, 2021, the Michigan Office of Administrative Hearings and Rules received a Hearing Summary and attached documents.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance has been denied. MAC R 400.903(1). Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

Department policies are contained in the following Department of Health and Human Services Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

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.

Title XIX of the Social Security Act, commonly referred to as "The Medicaid Act," provides for Medical Assistance services to individuals **who lack the financial means to obtain needed health care**. 42 U.S.C. §1396. (Emphasis added)

The Medicaid program is administered by the federal government through the Centers for Medicaid and Medicare Services (CMS) of the Department of Health and Human Services (HHS). The state and federal governments share financial responsibility for Medicaid services. Each state may choose whether or not to participate in the Medicaid program. Once a state chooses to participate, it must operate its Medicaid program in accordance with mandatory federal requirements, imposed both by the Medicaid Act and by implementing federal regulations authorized under the Medicaid Act and promulgated by HHS.

Participating states must provide at least seven categories of medical services to persons determined to be eligible Medicaid recipients. 42 USC §1396a(a)(10)(A), 1396d(a)(1)-(5), (17), (21). One of the seven mandated services is *nursing facility services*. 42 USC §1396d(a)(4)(A).

Pertinent Department policy dictates:

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever they believe the decision is incorrect. The department provides an administrative hearing to review the decision and determine its appropriateness in accordance to policy. This item includes procedures to meet the minimum requirements for a fair hearing. BAM 600, page 1

Assets must be considered in determining eligibility for FIP, SDA, RCA, G2U, G2C, RMA, SSI-related MA categories, CDC and FAP. FIP, SDA, RCA, G2U, G2C, CDC and RMA consider only the following types of assets:

- Cash (which includes savings and checking accounts).
- Investments (which includes 401(k), Roth IRA etc.).
- Retirement Plans.
- Trusts.

Assets mean:

- Cash (see Cash in this item).
- Personal property. Personal property is any item subject to ownership that is not real property (examples: currency, savings accounts and vehicles).
- Real property. Real property is land and objects affixed to the land such as buildings, trees and fences. Condominiums are real property. BEM 400, pages 1-2

All types of assets are considered for SSI-related MA categories. BEM 400, page 2
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. At application, do not authorize MA for future months if the person has excess assets on the processing date.

If an ongoing MA recipient or active deductible client has excess assets, initiate closure. However, delete the pending negative action if it is verified that the excess assets were disposed of. Payment of medical expenses, living costs and other debts are examples of ways to dispose of excess assets without divestment. LTC and waiver patients will be penalized for divestment; see BEM 405, MA DIVESTMENT. BEM 400, page 6

For all other SSI-related MA categories, the asset limit is:

- \$2,000 for an asset group of one.
- \$3,000 for an asset group of two BEM 400, page 8

In this case, the Petitioner had more than \$2000.00 in countable, available assets at all times relevant to this application. The facts are not at issue. The Department has established by the necessary, competent and material evidence on the record that it acted in accordance with Department policy when it denied Petitioner's application for Medical Assistance based upon excess assets.

DECISION AND ORDER

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's determination that Petitioner has more than \$2,000.00 in countable, available assets for was correct under the circumstances.

Accordingly, the actions of the Department must stand and are **AFFIRMED**.

LL/ml



Landis Lain
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

DHHS – via electronic mail

MDHHS-906EUPHearings
BSC1
C. George
EQAD

Authorized Hearing Rep. – via first class mail

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Petitioner – via first class mail

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