



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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████████████████████, MI ██████████

Date Mailed: September 17, 2021
MOAHR Docket No.: 21-003480
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 August 18, 2021. Petitioner was represented by ██████████. The Department was represented by Patty Holihan.

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) requesting Long Term Care (LTC).
2. On January 6, 2021, the Department requested that Petitioner provide verification of the value of assets.
3. Petitioner reported that she and her spouse hold countable assets with a combined value of \$125,386.43.
4. Among the assets that were reported to the Department was a Thrift Savings Plan (TSP) with an account balance of \$██████████ as of December 31, 2020.
5. Petitioner was receiving installment payments from the Thrift Savings Plan (TSP) as of November 20, 2020.
6. On March 18, 2021, the Department notified Petitioner that she was not eligible for Medical Assistance (MA) effective December 1, 2020.

7. On June 16, 2021, the Department received Petitioner's request for a hearing protesting the denial of Medical Assistance (MA).

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 (October 1, 2021), pp 1-7.

The value of a retirement plan is the amount of money the person can currently withdraw from the plan less any early withdrawal penalty, but not the amount of any taxes due. Funds in a plan are not available if the person must quit a job to withdraw any money. BEM 400, p 28.

On December 30, 2020, the Department received Petitioner's application for MA benefits and requesting LTC assistance. The Department requested verification of the assets held by Petitioner and her spouse, who is not in long term care. Among the assets Petitioner reported to the Department is a Thrift Savings Plan (TSP), which fits the definition of a retirement plan. Retirement plans are excluded from countable assets with respect to eligibility for food assistance but are countable towards eligibility for MA benefits when available to the client. In this case, the hearing record supports a finding that installment payments were being made from the TSP and that it was not necessary to quit a job for the funds to be available.

It was not disputed during the hearing that if the TSP account is a countable cash asset, that Petitioner is not eligible for MA benefits. The Department credibly determined that Petitioner's assets exceed the limit for her to receive MA benefits when the balance of the TSP account is considered. This Administrative Law Judge finds that the TSP

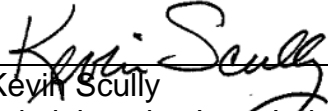
account is a countable investment asset that is not an excluded asset under Department policy in BEM 400.

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 application for Medical Assistance (MA) benefits due to household countable assets.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

KS/nr



Kevin Scully
Administrative Law Judge
Michigan Office of Administrative Hearings
and Rules (MOAHR)

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

Kelly Sutherland
2300 E Grand River Ste. 1
Howell, MI 48843

Livingston County DHHS- via electronic
mail

BSC4- via electronic mail

C. George- via electronic mail

EQAD- via electronic mail

Petitioner

██████████ - via first class mail

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██████████, MI ██████████

Authorized Hearing Rep.

██████████ - via first class mail

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██████████, MI ██████████