



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: November 10, 2021
MOAHR Docket No.: 21-003807
Agency No.: ██████████
Petitioner: ██████████ ██████████

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 14, 2021, from Lansing, Michigan. The Petitioner was represented by her attorney ██████████ ██████████ ██████████ also appeared and testified for the Petitioner. The Department of Health and Human Services (Department) was represented by Assistant Attorney General Dan Beaton. Nichloas Kasbohm and Robert Villas FIM appeared and testified for the Department. Department Exhibit 1, pp. 1-30 was received and admitted.

ISSUE

Did the Department properly deny Petitioner's Medical Assistance (MA) application because she was not a resident of the State of Michigan?

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 ██████████ ██████████ ██████████ Petitioner applied for MA.
2. On July 21, 2021, Petitioner submitted a Health Care Coverage Supplemental Questionnaire which stated that Petitioner had "Nursing Home" expense.
3. On August 2, 2021, a Health Care Coverage Determination Notice was sent to Petitioner informing her that her MA application was denied because she was not a resident of the State of Michigan.
4. On August 12, 2021, Petitioner's Power of Attorney requested hearing disputing the denial of MA. (Ex.1, pp. 6-8)

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.

Medicaid Only

An institutionalized, capable individual at least age 18 or married has Michigan residence if the individual lives in Michigan **and** intends to remain in the state permanently or indefinitely.

Exception: An individual remains a Michigan resident if the individual:

- Is currently in an out-of-state LTC facility, **and**
- Was a Michigan resident immediately prior to entering the LTC facility.

Note: A Michigan resident who voluntarily enters an out-of-state long-term care facility on or after October 1, 2007, is not considered a Michigan resident for Medicaid purposes. BEM 220

In this case, Petitioner entered a long-term care facility in the State of Wisconsin before she applied for MA in Michigan. Petitioner indicated on her application that she was in a “nursing home”. Nothing was provided to the Department prior to their determination that Petitioner was not in a nursing home or long-term care facility. Policy is very clear that individuals that enter long term care in another state voluntarily are not residents of Michigan. BEM 220 Therefore, the denial of MA due to not being a resident is proper and correct and consistent with Department policy.


Petitioner argued that she entered a rehab facility and not a long-term care facility. Petitioner argued that she always intended to return to Michigan and to maintain her residency.

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 MA application because she voluntarily entered a long-term care facility in Wisconsin and was not a resident of the State of Michigan.

DECISION AND ORDER

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

AM/nr



Aaron McClintic
Administrative Law Judge

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
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