



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: [REDACTED]  
MOAHR Docket No.: 22-000895  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie**

### **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 April 28, 2022, and continued on May 24, 2022, from Lansing, Michigan. The Petitioner was represented by her authorized representative, [REDACTED]. The Department of Health and Human Services (Department) was represented by Laurel Palermo, Long Term Care Specialist and Meagan Sterk, Assistance Payments Supervisor.

### **ISSUE**

Did the Department properly determine the divestment penalty for the Petitioner's long term care Medicaid (MA) case?

### **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, the Petitioner applied for MA and retroactive MA for August 2021 with the additional required verifications. Department Exhibit 1, pgs. 20-172.
2. On February 11, 2022, the Department determined the Petitioner's eligibility for MA by reviewing the financial records for the look back period of 60 months and established that there was a \$ [REDACTED] divestment resulting in a penalty period from August 17, 2021, through August 30, 2025. Department Exhibit 1, pgs. 10-17.

3. On February 11, 2022, the Department sent the Petitioner a Health Care Coverage Determination Notice, DHS 1606, that the Petitioner was denied MA from August 17, 2021, through August 30, 2025, due to a divestment penalty. Department Exhibit 1, pgs. 12-19.
4. On [REDACTED] 2022, the Department received a hearing request from the Petitioner, contesting the Department's negative action. Department Exhibit 1, pgs. 3-11.
5. On April 27, 2022, the Petitioner's Authorized Representative submitted an additional 93 pages in an exhibit resulting in a continuation of the hearing. Petitioner Exhibit 1.
6. On May 11, 2022, the Department submitted an additional exhibit in response to the Petitioner's exhibit. Department Exhibit II.
7. On May 24, 2022, the Petitioner's Authorized Representative submitted a written description of the exhibits found in Petitioner Exhibit 1.

### **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 Petitioner applied for MA and retroactive MA for August 2021 with the additional required verifications on September 10, 2021. On February 11, 2022, the Department determined the Petitioner's eligibility for MA by reviewing the financial records for the look back period of 60 months and established that there was a \$ [REDACTED] divestment resulting in a penalty period from August 17, 2021, through August 30, 2025. A hearing was held on April 28, 2022, but with the additional exhibits presented by the Petitioner's Authorized Representative the hearing had to be continued until May 24, 2022.

In the interim, the Department representative reviewed the additional verifications submitted by the Petitioner's Authorized Representative to lower the divestment penalty to \$ [REDACTED]. The parties agreed to this amount based on the new verifications provided to show where the original money came from in the multiple accounts.

**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 acted in accordance with Department policy when it determined that the new divestment amount based on the additional verification provided was \$ [REDACTED]

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

CF/cc



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**Carmen G. Fahie**  
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-Electronic Mail :**

**Interested Parties**

MDHHS-Allegan-Hearings  
BSC3-HearingDecisions  
EQADHearings  
C. George  
MOAHR

**Via-First Class Mail :**

**Authorized Hearing Rep.**

[REDACTED]

**Petitioner**

[REDACTED]