



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED] MI [REDACTED]

Date Mailed: June 1, 2022
MOAHR Docket No.: 22-001884
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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 May 26, 2022, from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Tom Jones, Assistance Payments Supervisor.

ISSUE

Did the Department properly deny Petitioner's application for Medical Assistance (MA) benefits due to excess assets?

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 or around [REDACTED] 2022, Petitioner submitted an application requesting MA benefits.
2. On an unverified date, the Department denied Petitioner's application due to a failure to return a DHHS-1004. As instructed, Petitioner subsequently submitted bank account statements to verify her assets and the Department began reprocessing the [REDACTED] 2022, MA application.
3. On April 11, 2022, the Department sent Petitioner a Health Care Coverage Determination Notice (Notice) advising her that effective January 1, 2022, she was determined ineligible for MA because the value of her countable assets was higher than allowed. (Exhibit A, pp. 9-10)

4. Petitioner confirmed that she is [REDACTED] years old and does not have a spouse. Petitioner indicated that she receives income from Social Security in the gross amount of [REDACTED] and that [REDACTED] is deducted for her Medicare premiums. Petitioner's monthly net income from Social Security is [REDACTED]. Since 2015, Petitioner had been receiving monthly income from an annuity in the amount of [REDACTED]. Petitioner asserted her last annuity payment was received on March 24, 2022, in the amount of [REDACTED].
5. On or around [REDACTED] 2022, Petitioner requested a hearing disputing the Department's denial of her MA application. (Exhibit A, pp. 3-4)

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 contended that Petitioner was ineligible for MA because the value of her countable assets exceeded the limit for MA eligibility. Asset eligibility is required for MA coverage under SSI-related MA categories, which are categories providing MA coverage to individuals who are aged, blind or disabled. BEM 400 (April 2022), p. 1-2, 6; BEM 105 (January 2022), p. 1. Checking and savings accounts are assets. The Department will consider the value of cash assets (which includes money in checking and savings accounts) in determining a client's asset eligibility for MA. BEM 400, pp. 14-15. For cash assets, the Department does not count funds treated as income by a program as an asset for the same month for the same program. BEM 400, p. 22. Asset eligibility will exist 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. BEM 400, p. 6. The asset limit for Petitioner's MA asset group size of one is \$2,000. BEM 400, pp. 7-9; BEM 211 (January 2016), pp. 1-8.

At the hearing, the Department asserted that based on Petitioner's age, she was potentially eligible for MA under only an SSI-related category. The Department did not present an MA Asset Budget for review showing the exact breakdown of assets considered. The Department testified that in making its determination that Petitioner had excess assets, it considered the value of her cash assets, specifically, the account

balance in her bank accounts. Although the MA application was received in January 2022, and the Department is to determine asset eligibility in the application month, the Department presented a bank statement submitted by Petitioner to the Department on April 20, 2022, showing her account information for the period of March 10, 2022, to April 11, 2022. (Exhibit A, pp. 6-8). The Department later testified that on February 4, 2022, it received verification of bank account information from Petitioner reflecting a balance of [REDACTED]. The Department testified that it considered the [REDACTED] balance as Petitioner's available cash assets and determined that because the amount was greater than the \$2,000 asset limit, Petitioner was ineligible for MA and as a result, denied the MA application.

Petitioner testified that she receives income from Social Security in the gross amount of [REDACTED] and that \$165.10 is deducted for her Medicare premiums. Petitioner's monthly net income from Social Security is [REDACTED]. Since 2015, Petitioner had been receiving monthly income from an annuity in the amount of \$[REDACTED]. Petitioner asserted her last annuity payment was received on [REDACTED] 2022, in the amount of [REDACTED]. Petitioner's annuity payments were electronically deposited to her bank account monthly. This was supported by the documents Petitioner submitted with her hearing request on April 20, 2022, and presented for review during the hearing. (Exhibit A, pp. 3-8).

With respect to the annuity payments Petitioner received monthly, Department policy indicates that annuities are written contracts with a commercial insurance company, establishing a right to receive specified, periodic payments for a life or for a term of years and are designed to be a source of retirement income. BEM 400, p.28; BEM 401 (January 2022), p.5. Payments an individual receives from an annuity are unearned income. BEM 503 (April 2022), p.4. Social Security is also counted as unearned income. As referenced above, Petitioner's monthly income cannot be considered a cash asset in the month received.

Although the Department testified that the [REDACTED] considered as Petitioner's cash assets was the lowest balance during at least one day during the month being tested and that the monthly annuity payment was deducted as income from the lowest balance on the bank statement, the statements relied upon were not presented for review and thus, the Department's testimony could not be verified.

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 because the Department failed to present documentation verifying the exact asset amounts considered as of the application month, the Department did not act in accordance with Department policy when it denied Petitioner's [REDACTED] 2022, MA application due to excess assets.


DECISION AND ORDER

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

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Register and process Petitioner's [REDACTED] 2022, applications for MA benefits to determine her MA eligibility for all MA categories from the application dates, ongoing;
2. Provide Petitioner with MA coverage under the most beneficial category from the application date, ongoing, if otherwise eligible, in accordance with Department policy;
3. Supplement Petitioner and her provider for any eligible missed MA benefits; and
4. Notify Petitioner in writing of its decision.

ZB/ml


Zainab A. Baydoun
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
Lansing, Michigan 48909-8139

Via-Electronic Mail :

DHHS
Linda Gooden
Oakland County Southfield District III
25620 W. 8 Mile Rd
Southfield, MI 48033
**MDHHS-Oakland-6303-
Hearings@michigan.gov**

**BSC4
C. George
EQAD
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Via-First Class Mail :

Petitioner
[REDACTED]
[REDACTED] MI [REDACTED]