



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: November 14, 2022
MOAHR Docket No.: 22-004171
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 October 25, 2022. The Petitioner was represented by her son, legal guardian, and authorized representative, [REDACTED]. The Petitioner passed away on August 27, 2022. Department of Health and Human Services (Department) was represented by Kristina Warner, Hearing Facilitator.

ISSUE

Did the Department properly determine the Petitioner's eligibility for Medical Assistance (MA) for Long-Term Care (LTC)?

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] 2022, the Petitioner submitted a LTC application. Department Exhibit 1, pgs. 10-28.
2. On July 25, 2022, the Department Caseworker sent the Petitioner a Verification Checklist, DHS 3500, for written verification of life insurance policy due August 4, 2022. Department Exhibit 1, pgs. 31-32.
3. On July 28, 2022, the Department Caseworker received written verification of the Petitioner's converted extended term insurance. Department Exhibit 1, pgs. 29
4. On August 2, 2022, the checklist was extended to August 15, 2022. Department Exhibit 1, pg. 34.

5. On August 2, 2022, the Petitioner's guardian, son, and authorized representative responded that the documentation was sent in to show that the life insurance was converted to an extended term life policy with the request to explain what is still outstanding and is required to process this case. Department Exhibit 1, pgs. 35-45.
6. On August 15, 2022, the checklist was extended to August 25, 2022, because the written verification was not on the life insurance provider (LIP) letterhead, type of policy, issue date, owner, insured, and the terms and condition of the policy. Department Exhibit 1, pg. 46.
7. On August 25, 2022, the authorized representative submitted a life insurance surrender and purchased a funeral contract that was not paid in full, which prompted the Department Caseworker to ask for policy clarification. Department Exhibit 1, pgs. 47-68.
8. On August 30, 2022, the Department Caseworker denied the LTC MA application and sent the Petitioner's authorized representative a Health Care Coverage Determination Notice, DHS 1606, that the Petitioner was not eligible due to excess assets July 1, 2022 onward. Department Exhibit 1, pgs. 69-72.
9. On September 12, 2022, the Department received a hearing request from the Petitioner's authorized representative, contesting the Department's negative action.

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 submitted a LTC application on [REDACTED] 2022. Department Exhibit 1, pgs. 10-28. On July 25, 2022, the Department Caseworker sent the Petitioner a Verification Checklist, DHS 3500, for written verification of life insurance policy due August 4, 2022. Department Exhibit 1, pgs. 31-32. On July 28, 2022, the Department Caseworker received written verification of the Petitioner's converted extended term insurance. Department Exhibit 1, pgs. 29.

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BEM 400

Prepaid Funeral Contract

SSI-Related MA Only

A prepaid funeral contract means a contract requiring payment in advance for funeral goods or services. Contracts may be revocable or irrevocable.

- See *Revocable Prepaid Funeral Contract Exclusions and Value* in this item if the contract is revocable.
- See *Irrevocable Prepaid Funeral Contracts* in this item if the contract is irrevocable.
- See *BAM 805, Prepaid Funeral Contracts*, about making Michigan contracts irrevocable.

**Revocable
Prepaid
Funeral
Contract
Exclusions
and Value**

SSI-Related MA Only

Funds in a revocable prepaid funeral contract might be excludable using the *Burial Fund Exclusion* and/or the *SSI-Related MA Burial Space Exclusion* in this item.

The countable amount of the contract is the amount remaining on deposit after deducting those exclusions and any commissions or fees that would be charged upon withdrawal. There is no burial funds exclusion.

**Irrevocable
Prepaid
Funeral
Contracts**

G2U, G2C, RMA, SSI-Related MA Only

Funds in an **irrevocable** prepaid funeral contract are unavailable and thus are **not** counted.

Funds in a Michigan contract (DHS-8A, Irrevocable Funeral Contract Certification) certified irrevocable are excluded.

During the hearing, the Petitioner's authorized representative stated that he wished that the Department Caseworker had provided more guidance since he had never applied for MA before. The Department is not allowed to give legal advice, but just approve or deny based on the written verifications provided. The Department Caseworker gave several extensions for additional information and provided clarification based on the information submitted.

The Petitioner's authorized representative purchased an irrevocable funeral contract, but it was not paid in full and there was still an amount outstanding. Department policy requires the irrevocable funeral contracts (DHS-8A) to be paid in full in order for the amount of the contract asset to be excluded. The DHS-8A could be rewritten for the funded items. The Petitioner passed away on [REDACTED] 2022.

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 Petitioner had excess assets for MA LTC eligibility.

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

CF/cc



Carmen G. Fahie
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 :

Interested Parties

MDHHS-Jackson-Hearings
BSC4-HearingDecisions
EQADHearings
C. George
MOAHR

Via-First Class Mail :

Petitioner

[REDACTED]
MI [REDACTED]

Authorized Hearing Rep.

[REDACTED]
MI [REDACTED]