



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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Date Mailed: January 6, 2023
MOAHR Docket No.: 22-005051
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 December 8, 2022, from Detroit, Michigan. Petitioner appeared for the hearing and represented himself. The Department of Health and Human Services (Department) was represented by Valarie Foley, Hearings Facilitator.

ISSUE

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

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner and his spouse entered the United States on or around September 22, 2022, as legal permanent residents from India.
2. On or around [REDACTED] 2022, Petitioner submitted an application requesting MA benefits for himself and his spouse.
3. On or around September 28, 2022, the Department sent Petitioner a Health Care Coverage Supplemental Questionnaire (Questionnaire) that he was instructed to complete and return by October 10, 2022. (Exhibit A, pp. 5-8)
4. Petitioner did not submit the completed Questionnaire by the due date.
5. On or around October 19, 2022, The Department sent Petitioner a Health Care Coverage Determination Notice, informing him that effective September 1, 2022,

he and his wife were ineligible for MA due to a failure to return Questionnaire. (Exhibit A, pp. 11-13)

6. On or around October 31, 2022, Petitioner requested a hearing disputing the Department's actions with respect to his MA case. With the request for hearing, Petitioner submitted the completed Questionnaire. (Exhibit A, pp. 3-8)
7. The Department accepted the Questionnaire and reprocessed the application.
8. On the Questionnaire, Petitioner reported assets in India including three bank accounts with balances of \$2300, \$7000, and \$700. Petitioner also submitted verification of the bank account statements. (Exhibit A, pp. 5-10)
9. On or around November 7, 2022, the Department sent Petitioner a Health Care Coverage Determination Notice, informing him that he and his wife were ineligible for MA because the value of the countable assets is higher than allowed for the program. (Exhibit 1, pp. 16-18)

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 and his wife were ineligible for MA because the value of their 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. 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 two is \$3,000. BEM 400, pp. 7-9; BEM 211 (January 2016), pp. 1-8.

An asset must be available to be countable. Available means that someone in the asset group has the legal right to use dispose of the asset. For jointly owned assets that have more than one owner, an asset is unavailable if all the following are true, and an owner **cannot** sell or spend his share of an asset: without another owner's consent, the other owner is not in the asset group, and the other owner refuses consent. BEM 400, pp. 12.

It was established that based on their ages of ■ and ■ respectfully, Petitioner and his wife are potentially eligible for MA under an SSI-related category that is subject to an asset test. Although 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, the Department considered the value of his cash assets, specifically, the balances in his bank accounts in India which, when converted to US dollars, total greater than \$3,000.


At the hearing, Petitioner did not dispute that the value of the cash assets in the three Indian bank accounts totals more than \$3,000 and stated that when converted, the 624,673.81 Indian Rupees in the accounts are the equivalent to about \$7,665. (Exhibit 1). Petitioner testified that at the time of the application, he had not been assigned a Social Security number and could not open a bank account in the United States and thus, could not transfer the funds to a bank account in the United States or to change the accounts from a residential Indian to a non-residential Indian account. Petitioner testified that he has since received a Social Security number and thus, is able to access the funds from the United States. Notwithstanding Petitioner's testimony during the hearing, the evidence established that although the bank accounts at issue are located in India, Petitioner has the legal right to use or dispose of the assets. Furthermore, based on the evidence presented, including the disclosures on the Questionnaire, the bank statements presented for review, and Petitioner's testimony, the evidence was sufficient to show that the bank accounts were available to Petitioner. Because it was undisputed that the converted value of the cash assets in Petitioner's bank accounts exceeds the \$3,000 MA asset limit, Petitioner and his wife were ineligible for MA.

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 due to excess assets.

DECISION AND ORDER

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

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
Susan Noel
Wayne-Inkster-DHHS
26355 Michigan Ave
Inkster, MI 48141
**MDHHS-Wayne-19-
Hearings@michigan.gov**

Interested Parties

BSC4
M Schaefer
EQAD
MOAHR

Via First Class Mail :

Petitioner

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