



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: June 5, 2023
MOAHR Docket No.: 23-002468
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 31, 2023, via conference line. Petitioner was represented by her Authorized Hearing Representative, ██████████. The Department of Health and Human Services (Department) was represented by Joanna Rivera, Assistance Payments Supervisor.

ISSUE

Did the Department properly deny Petitioner's application for Medical Assistance (MA) and Medicare Savings Program (MSP) 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. On March 1, 2023, an application for MA and MSP benefits was submitted on Petitioner's behalf.
2. On March 13, 2023, verification of Petitioner's checking and savings accounts were submitted (Exhibit A, pp. 18-27).
3. On March 31, 2023, the Department sent Petitioner a Health Care Coverage Determination Notice informing her that her application for benefits was denied, due to excess assets (Exhibit A, pp. 29-31).
4. On April 28, 2023, Petitioner's AHR submitted a request for hearing disputing the Department's actions.

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, Petitioner submitted an application for MA and MSP benefits. Petitioner was only eligible for benefits under the SSI-related MA programs. The Department determined that Petitioner exceeded the asset limit for both programs due to the cash assets in her checking/savings accounts.

Assets must be considered when determining eligibility under the SSI-related MA programs. BEM 400 (April 2018), p. 1. The Department considers cash, investments, retirement plans, and trusts. BEM 400, p. 1. Cash assets includes funds in a checking account. BEM 400, p. 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. An asset group includes the individual and the individual's spouse. BEM 211 (January 2016), p. 8. The asset limit for SSI-related MA for an unmarried individual is \$2,000. BEM 400, p. 7. The asset limit for SSP benefits for a group size of one is \$9,090. BEM 400, p. 8.

The Department testified that between Petitioner's three checking/savings accounts, Petitioner had \$9,456.36. As a result, Petitioner's application was denied for excess assets.

At the hearing, the Department conceded that no monthly income was deducted from Petitioner's asset total. Petitioner had Social Security income, as well as income from a pension. Per policy, funds treated as income by a program are not included as an asset for the same month for the same program. Therefore, the Department failed to establish that it properly determined Petitioner's asset total. As it follows, the Department failed to establish that it properly determined Petitioner's MA and MSP eligibility.

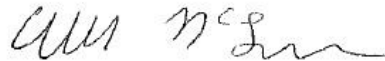
DECISION AND ORDER

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner's MA and MSP eligibility.

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. Reinstate and reprocess Petitioner's March 1, 2023 application;
2. If Petitioner is eligible for MA and/or MSP benefits, provide coverage as required by policy; and
3. Notify Petitioner of its MA and MSP decisions in writing.



EM/tm

Ellen McLemore
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**

Interested Parties

M. Schaefer
EQADHearings
BSC4

Via-First Class Mail :

Authorized Hearing Rep.

[REDACTED]
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Petitioner

[REDACTED]
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[REDACTED]