



STATE OF MICHIGAN

GRETCHEN WHITMER
GOVERNOR

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA
ACTING DIRECTOR

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Date Mailed: September 8, 2023
MOAHR Docket No.: 23-004120
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 August 10, 2023, from Lansing, Michigan. The Petitioner was represented by ██████████ Guardian. The Department of Health and Human Services (Department) was represented by Jacquelyn Ebelt, Eligibility Specialist (ES), and Roianne Brown, Assistance Payments Supervisor (APS).

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-26.

ISSUE

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

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 ██████████ 2023, an application for MA was submitted on Petitioner's behalf.. (Exhibit A, p. 1)
2. During the eligibility determination process, it was discovered and confirmed that Petitioner is legally married to ██████████ who has \$204,532.98 in assets. (Exhibit A, pp. 1, 3-6, and 12-17)

3. Petitioner's spouse is a mandatory fiscal group member and her assets are countable pursuant to Department policies. (Exhibit A, pp. 1 and 7-11)
4. On May 22, 2023, a Health Care Coverage Determination Notice was issued stating MA was denied based on assets in excess of program limits. (Exhibit A, pp. 18-20)
5. On June 16, 2023, a hearing request was submitted on Petitioner's behalf contesting the Department's determination. (Exhibit A, pp. 22-26)

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.

BEM 402 addresses Special MA Asset Rules:

SSI-Related MA Only

A spouse remains the applicant's spouse for Medicaid eligibility until there is a Judgement of Divorce. If the community spouse's whereabouts are unknown (a couple separated prior to the client entering an LTC/hospital setting and the client does **not** know where the spouse is living or how to contact the spouse), the client's countable assets are compared to the appropriate asset limit in BEM 400 to determine eligibility.

BEM 402, January 1, 2023, pp. 11-12.

In this case, it was uncontested that there has been no Judgement of Divorce. The amount of Petitioner's spouse's assets was also uncontested. Rather, Petitioner's Guardian explained that Petitioner and his spouse have been separated for 12 years. Petitioner only receives Social Security Administration issued benefits and would qualify for MA on his own. Petitioner needs nursing facility care, but he cannot afford it. Petitioner's Guardian does not have access to the spouse's assets. Petitioner's

Guardian is pursuing separate maintenance and a hearing was scheduled to be held in September. (Guardian Testimony).


The denial of Petitioner's application for MA was in accordance with the above cited BEM 402 policy, which states that a spouse remains the applicant's spouse for Medicaid eligibility until there is a Judgement of Divorce. The BEM 402 policy does not provide for an exception in this circumstance. Further, this Administrative Law Judge has no authority to change or make exceptions to Department policy.

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 application for MA.

DECISION AND ORDER

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

CL/ml



Colleen Lack
Administrative Law Judge

