



GRETCHEN WHITMER
GOVERNOR

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

MARLON I. BROWN, DPA
ACTING DIRECTOR

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Date Mailed: November 20, 2023
MOAHR Docket No.: 23-005713
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 October 19, 2023, from Lansing, Michigan. ██████ ██████ the Petitioner, appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Shanna Ward, Assistance Payments Supervisor (APS).

During the hearing proceeding, the Department's hearing summary packet was admitted as Exhibit A, pp. 1-24, and the Department's additional document was admitted as Exhibit B, p. 1.

ISSUE

Did the Department properly determine Petitioner's eligibility 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 July ██████ 2023, Petitioner submitted a Redetermination for MA with verifications. (Exhibit A, pp. 1 and 4-10)
2. A June ██████ 2023, bank statement shows that Petitioner and her husband have a money market account with a value of \$██████████. A December 19, 2019 letter from the bank states the money market account is not income based. A September

■ 2020 letter from the bank indicates the account is a money market demand account type. (Exhibit A, pp. 17-19)

3. On August ■ 2023 a Health Care Coverage Determination Notice was issued to Petitioner stating MA was denied based on assets in excess of program limits. (Exhibit A, pp. 20-23)
4. On September ■ 2023 Petitioner filed a hearing request contesting the Department's determination. (Exhibit A, p. 3)
5. On September 20, 2023, the Department received a letter from the bank stating Petitioner has an account that was set up with funds she received from the family will, it is not an asset, nor does it receive funds from earned income. (Exhibit B, p. 1)

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.

Asset eligibility exists 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, July 1, 2023, pp. 6-7. For SSI related MA for a group of two the asset limit is \$3,000.00. BEM 400. p. 8.

An asset is countable if it meets the availability tests and is not excluded. BEM 400, p. 2. All types of assets are considered for SSI-related MA categories. BEM 400, p. 3.

An asset must be available to be countable. Available means that someone in the asset group has the legal right to use or dispose of the asset. The Department is to assume an asset is available unless evidence shows it is not available. BEM 400, p. 10.

On July ■ 2023, Petitioner submitted a Redetermination for MA with verifications. (Exhibit A, pp. 1 and 4-10). A June ■ 2023, bank statement shows that Petitioner and her husband have a money market account with a value of \$■■■■■■■■■■ A December ■■■■■■■■■■

2019 letter from the bank states the money market account is not income based. A September [REDACTED] 2020 letter from the bank indicates the account is a money market demand account type. (Exhibit A, pp. 17-19). These verifications do not show that the funds in the account are not available to Petitioner. Therefore, the Department properly determined that the account was a countable asset. Accordingly, on August [REDACTED] 2023 a Health Care Coverage Determination Notice was issued to Petitioner stating MA was denied based on assets in excess of program limits. (Exhibit A, pp. 20-23).

Subsequently, on September [REDACTED] 2023, the Department received a letter from the bank stating Petitioner has an account that was set up with funds she received from the family will, it is not an asset, nor does it receive funds from earned income. (Exhibit B, p. 1). A letter from the bank stating the account is not an asset is not controlling for determining MA eligibility. This verification did not address whether the funds in the account are available to Petitioner. Further, this letter does not identify what account is being referenced, for example there is no account number. Accordingly, this letter is still not sufficient to establish that the money market account is not a countable asset for the MA eligibility determination.

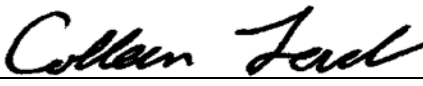
Petitioner testified that the funds came from her father's will, and it is set up in a way that she cannot touch it. (Petitioner Testimony). As discussed, Petitioner may wish to reapply for MA and provide verification that the funds in the money market account are not available to Petitioner.

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 Petitioner's eligibility for MA based on the available information.

DECISION AND ORDER

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

CL/dm



Colleen Lack
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
Shanna Ward
Osceola-Mecosta County DHHS
**MDHHS-Mecosta-Osceola-
Hearings@michigan.gov**

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Via-First Class Mail :

Petitioner

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