



GRETCHEN WHITMER
GOVERNOR

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

MARLON I. BROWN, DPA
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: March 1, 2024
MOAHR Docket No.: 23-009901
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 February 1, 2024, from Lansing, Michigan. [REDACTED], the Petitioner, appeared on her own behalf. [REDACTED], daughter, appeared as a witness for Petitioner. The Department of Health and Human Services (Department) was represented by Jessica Downing, Assistance Payments Supervisor (APS).

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-13.

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 November [REDACTED] 2023, Petitioner filed a Renew Benefits for her MA case and reported that her home in [REDACTED] MI was for sale but had not sold yet. Petitioner was residing in a separate living space in her daughter's basement. When her home sold, the amount she received would go for rent for her lifetime. (Exhibit A, pp. 5-7)
2. On November [REDACTED] 2023, a Health Care Coverage Determination Notice was issued to Petitioner stating MA was denied effective January 1, 2024 due to assets in excess of program limits. (Exhibit A, pp. 8-11)

3. On December 4, 2023, Petitioner filed a hearing request contesting the Department's determination. (Exhibit A, pp. 3-4)

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.

The Medicaid program comprise several sub-programs or categories. To receive MA under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. Medicaid eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, MIChild, Flint Water Group and Healthy Michigan Plan is based on Modified Adjusted Gross Income (MAGI) methodology. In general, the terms Group 1 and Group 2 relate to financial eligibility factors. For Group 1, net income (countable income minus allowable income deductions) must be at or below a certain income limit for eligibility to exist. The income limit, which varies by category, is for nonmedical needs such as food and shelter. Medical expenses are not used when determining eligibility for MAGI-related and SSI-related Group 1 categories. For Group 2, eligibility is possible even when net income exceeds the income limit. This is because incurred medical expenses are used when determining eligibility for Group 2 categories. Group 2 categories are considered a limited benefit as a deductible is possible. BEM 105, October 1, 2023, p. 1.

Medicaid eligibility is determined on a calendar month basis. Unless policy specifies otherwise, circumstances that existed, or are expected to exist, during the calendar month being tested are used to determine eligibility for that month. BEM 105, October 1, 2023, p. 2.

Aged or Disabled (MA-AD) is an SSI-related Group 1 MA category. MA-AD is available to persons who are aged or disabled. Net income cannot exceed 100% of the poverty level. The net income limit can be determined by subtracting twenty dollars from the income limits listed in table one of RFT 242. BEM 163, July 1, 2017, pp. 1-2. Effective April 1, 2023, the listed monthly income limit for a group size of one is \$1,235.00. RFT 242, April 1, 2023, p. 1.

Asset eligibility is required for SSI-related MA categories. 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 the SSI related MA categories for a group of one the asset limit is \$2,000.00. BEM 400. pp. 6-8.

BEM 400 policy addresses excluding a homestead from being included in the countable assets and absence from the homestead. For SSI-related MA, a homestead is where a person lives that they own, is buying or holds through a life estate. One homestead can be excluded for an asset group. BEM 400, July 1, 2023, p. 35. The Department is to exclude the homestead that an owner lived in prior to the time the individual left the property if any of the following are true: the owner intends to return to the homestead; the owner is in a long term care (LTC) facility, a hospital, an adult foster care (AFC) home or a home for the aged; or a co-owner of the homestead uses the property as his home. BEM 400, July 1, 2023, p. 37.

In this case, Petitioner is potentially eligible for SSI-related MA, which has an asset limit of \$2,000.00. On November █ 2023, Petitioner filed a Renew Benefits for her MA case and reported that her home in █ MI was for sale but had not sold yet. Petitioner was residing in a separate living space in her daughter's basement. When her home sold, the amount she received would go for rent for her lifetime. (Exhibit A, pp. 5-7). Based on this information, the property in █ MI could no longer be excluded as a homestead because Petitioner: was no longer residing there; she did not intend to return to the homestead; she was not in a LTC facility, hospital, AFC, or home for the aged; and no co-owner of the homestead used the property as their home. The Department determined that Petitioner exceeded the applicable \$2,000.00 asset limit for the SSI related MA categories when the property was counted as an asset.

Petitioner's daughter indicated Petitioner was only going to stay with her for the winter, then Petitioner is going to her home in █ County. Petitioner's home needed a lot of repairs, including to the boiler heater and to fix the foundation. They were concerned about Petitioner's ability to stay in the home and were going to sell it. There was a potential buyer, but this fell through. Petitioner paid \$23,000.00 to fix the foundation and thousands for the heater, unfortunately paying by credit card. At this point, they hope for Petitioner to return to the home in the spring. (Daughter Testimony).

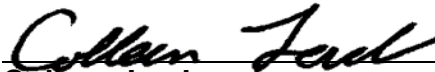
As noted above, on the November █ 2023 Renew Benefits Petitioner reported that her home in █ MI was for sale but had not sold yet. Petitioner was residing in a separate living space in her daughter's basement. When her home sold, the amount she received would go for rent for her lifetime. (Exhibit A, p. 7). Unfortunately, there was no evidence that by the time of the November 29, 2023 determination Petitioner notified the Department that plans changed and she did intend to return to living in the homestead. Accordingly, the November 29, 2023 determination was appropriate based on the information provided to the Department at that time. As discussed, Petitioner may wish to re-apply for MA and provide updated information with the new application.

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 information provided at the time of the November 2023 determination.

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
Greg Walker
Alpena County DHHS
**MDHHS-GR8North-
Hearings@michigan.gov**

SchaferM

EQADHearings

BSC1HearingDecisions

MOAHR

Via-First Class Mail :

Petitioner

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