



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: May 26, 2022  
MOAHR Docket No.: 22-001655  
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 19, 2022, from Detroit, Michigan. Petitioner was represented by her Authorized Hearing Representative (AHR), ██████████. The Department of Health and Human Services (Department) was represented by Silhoutte O'Neal, Assistance Payments Worker.

### **ISSUE**

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

### **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 ██████████ 2022, an application for MA was submitted on Petitioner's behalf.
2. Petitioner had income in the form of Retirement, Survivors and Disability Insurance benefits in the gross monthly amount of ██████████ per month. Petitioner also had pension benefits in the gross monthly amount of ██████████.
3. On April 1, 2022, the Department sent Petitioner a Health Care Coverage Determination Notice informing her that her MA application was denied, due to excess assets.
4. On ██████████ 2022, 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, an application for MA benefits was submitted on Petitioner's behalf. At the hearing, the Department testified that on the application, Petitioner had liquid assets in her checking account in the amount of [REDACTED]. The Department stated that Petitioner's MA application was denied due to excess assets.

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 under the G2C program for a group size of one is \$2,000. BEM 400, p. 7.

The Department testified that because Petitioner had cash assets in excess of \$2,000, Petitioner exceeded the asset limit for her group size. The Department testified that Petitioner had monthly RSDI income in the amount of [REDACTED] per month and pension income in the amount of [REDACTED] per month. The Department conceded that it did not consider Petitioner's income when determining her asset total.

Per policy, funds treated as income by a program are not included as an asset for the same month for the same program. Petitioner's RSDI and pension income would have been considered under all SSI-related MA programs, and therefore, should have been deducted from the asset amount. The Department failed to reduce the total asset amount by Petitioner's current income. Therefore, the Department did not follow policy when denied Petitioner's MA benefit application.

At the hearing, Petitioner's AHR provided testimony regarding Petitioner's income and her eligibility for the MA Waiver Program. Per policy, an individual's gross income must be at or below 300 percent of the SSI Federal Benefit Rate (currently \$841 for an

individual). Petitioner's hearing request was solely related to the denial of the [REDACTED], 2022 MA application. There was no evidence that the Department issued an adjudication related to Petitioner's eligibility for the MA Waiver Program. Therefore, the undersigned ALJ does not have jurisdiction to address the matter. If the Department issues an adjudication related to Petitioner's income eligibility related to the MA Waiver Program, Petitioner and/or Petitioner's AHR will have a new right to hearing.

### **DECISION AND ORDER**

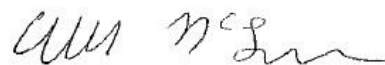
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it denied Petitioner's MA application.

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 [REDACTED], 2022 MA application;
2. If Petitioner is eligible for MA benefits, provide coverage she is entitled to receive; and
3. Notify Petitioner and Petitioner's AHR of its decision in writing.

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**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

**Email Recipients:**

MDHHS-Oakland-2-Hearings  
C. George  
EQADHearings  
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MOAHR

**First Class Mail-Recipients:**

**Petitioner:**

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**Authorized Hearing Rep.**

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