



GRETCHEN WHITMER
GOVERNOR

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

MARLON BROWN
DIRECTOR

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Date Mailed: December 23, 2024
MOAHR Docket No.: 24-011719
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 November 27, 2024, from Lansing, Michigan. The Petitioner was represented by ██████████ Petitioner also appeared and testified. The Department of Health and Human Services (Department) was represented by Kellen Facchini. Department Exhibit 1, pp. 1-61 was received and admitted.

ISSUE

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

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 ██████████ 2024, Petitioner applied for MA with a request for retroactive coverage back to May 2024.
2. On September 10, 2024, a Verification Checklist was sent to Petitioner requesting verification of income and assets including "copy of trust document".
3. On September 26, 2024, Petitioner submitted documents related to his trust. The title of the document is First Amendment and Restatement of the ██████████ Trust. (Ex. 1, pp. 16-33)
4. On October 8, 2024, a Health Care Coverage Determination Notice was sent to Petitioner informing him that his MA application was denied for failing to provide all requested verifications.

5. On October 10, 2024, Petitioner requested hearing disputing the denial of MA.

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.

REFERRALS TO TRUSTS AND ANNUITIES UNIT

A completed DHS-1517, Request for Trust/Annuity Evaluation, must accompany all trusts/annuities requests. Send all trusts and annuities to the Trusts and Annuities Unit for evaluation. BEM 401 (January 2022)

In this case, on September 26, 2024, Petitioner submitted the most recent version of his trust entitled First Amendment and Restatement of the [REDACTED] Trust. Petitioner's representative testified this document is what they would submit to the IRS or other governmental agencies. Petitioner's representative testified that she believed the current trust documents were sufficient and that the trust should have been submitted to the trust department for evaluation.

The Department representative testified that the trust documents were insufficient because the previous trusts referenced in the trust documents that were submitted would need to be evaluated and argued that the trust documents submitted on September 26, 2024, were insufficient.

It is unclear whether the trust documents submitted by Petitioner on September 26, 2024, are insufficient. Policy directs workers to "Send all trust and annuities to the Trust and Annuities Unit for evaluation." BEM 401. The Department workers who processed this case did not do that.

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 failed to submit the trust submitted by Petitioner on September 26, 2024, to the trust and annuities department for evaluation.


DECISION AND ORDER

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 Petitioner's application going back to the date of application.
2. Send the trust documents submitted by Petitioner on September 26, 2024, to the trust and annuities department for evaluation consistent with BEM 401.

AM/ml


Aaron McClintic
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

Jennipher Wheeler
Muskegon County DHHS
2700 Baker Street
PO Box 4290
Muskegon Heights, MI 49444
MDHHS-Muskegon-Hearing@michigan.gov

Interested Parties

BSC3
M Schaefer
EQAD
MOAHR

Via First Class Mail:

Petitioner

[REDACTED]
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