

**STATE OF MICHIGAN  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**IN THE MATTER OF:**

[REDACTED]

MAHS Reg. No.: 15-016718  
Issue No.: 2001  
Agency Case No.: [REDACTED]  
Hearing Date: January 07, 2016  
County: Berrien

**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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, an in-person hearing was held on January 7, 2016, from Benton Harbor, Michigan. [REDACTED], the Petitioner, appeared on his own behalf. The Department of Health and Human Services (Department) was represented by [REDACTED], Family Independence Manager (FIM), and [REDACTED], Assistance Payments Worker (APW).

**ISSUES**

Did the Department properly close Petitioner's Medicaid (MA-HMP) case?

Did the Department properly determine Petitioner's eligibility for the Medicare Savings Program (MSP)?

**FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner was receiving Healthy Michigan Plan Medicaid (MA-HMP) benefits.
2. As of August 24, 2015, Petitioner had an IRA with an account balance of \$ [REDACTED] (Department Exhibit 4)
3. Petitioner's date of birth is September 6, 1950. (Petitioner Testimony)
4. Petitioner was going to be eligible for Medicare when he reached age 65 on September 6, 2015.
5. On August 16, 2015, a Notice to Beneficiaries Who Have Medicare and Healthy Michigan Plan was issued to Petitioner stating he would be dis-enrolled from his

health plan on August 31, 2015, but would still have Medicaid or Healthy Michigan Plan starting on September 1, 2015. (Department Exhibit 3)

6. On September 2, 2015, a Health Care Coverage Determination Notice was issued to Petitioner stating he was not eligible for health care coverage effective October 1, 2015. (Department Exhibit 1)
7. On September 8, 2015, Petitioner filed a hearing request contesting the Medical program determinations. (Petitioner Exhibit A)

### **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 Healthy Michigan Plan provides health care coverage for individuals who:

- Are 19-64 years of age
- Have income at or below 133% of the federal poverty level under the Modified Adjusted Gross
- Income (MAGI) methodology
- Do not qualify for or are not enrolled in Medicare
- Do not qualify for or are not enrolled in other Medicaid programs
- Are not pregnant at the time of application
- Are residents of the State of Michigan

Medicaid Provider Manual, Healthy Michigan Plan,  
(July 1, 2015) p. 1.  
(Underline added by ALJ)

Department policy requires an ex-parte review that should begin at least 90 days (when possible) prior to the close of any type of Medicaid assistance. When the ex parte review shows that a recipient does have eligibility for Medicaid under another category, the coverage is to be changed. If additional information is needed to determine continued eligibility, verification should be requested. If the ex parte review suggests

there is no potential eligibility under another MA category, the Department is to send timely notice of Medicaid case closure. BAM 220, (July 1, 2015), pp. 17-18

In this case, Petitioner was receiving Healthy Michigan Plan Medicaid (MA-HMP) benefits. Petitioner was going to be eligible for Medicare when he reached age 65 on September 6, 2015. This prompted a re-determination of his eligibility for MA programs as he no longer meet the above cited eligibility criteria for MA-HMP. Petitioner's testimony confirmed that he has enrolled in Medicare.

As discussed during the hearing proceedings, the information on the notices the Department issued to Petitioner did not clearly explain the MA determinations. For example the August 16, 2015, Notice to Beneficiaries Who Have Medicare and Healthy Michigan Plan, did not specify what type of MA coverage Petitioner would have starting on September 1, 2015. (Department Exhibit 3) Additionally, a large portion of the September 2, 2015, Health Care Coverage Determination Notice, contains language addressing income eligibility under the Modified Adjusted Gross Income (MAGI) methodology utilized for MA-HMP and some other MA categories, but does not address Petitioner's ineligibility for MA programs due to excess assets. (Department Exhibit 1)

While there was no asset test for MA-HMP, BEM 400 does set forth asset limits for other MA categories.

Asset eligibility is required for G2U, G2C, RMA, and SSI-related MA categories.

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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.

At **application**, do not authorize MA for future months if the person has excess assets on the processing date.

If an **ongoing** MA recipient or active deductible client has excess assets, initiate closure. However, delete the pending negative action if it is verified that the excess assets were disposed of. Payment of medical expenses, living costs and other debts are examples of ways to dispose of excess assets without divestment.

BEM 400, (July 1, 2015), p. 6.

As confirmed with the Department witnesses, Petitioner, as a group of one and age 65, was potentially eligible for SSI related MA (MA-SSI), and the Medicare Savings Program (MSP). For MA-SSI the asset limit for a group size of one was \$2,000. For the MSP for a group size of one the asset limit was \$7,280. BEM 400, p. 7. (Department Exhibit 5) The Department had received verification that Petitioner had an IRA with an account balance of \$ [REDACTED] as of August 24, 2015. (Department

Exhibit 4) Accordingly, Petitioner was not eligible for ongoing Medicaid coverage or the MSP due to assets in excess of program limits.

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 closed Petitioner's MA-HMP case and did not find him eligible for another Medicaid category or the MSP

**DECISION AND ORDER**

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



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**Colleen Lack**  
Administrative Law Judge  
for Nick Lyon, Director  
Department of Health and Human Services

Date Mailed: **1/25/2016**

CL/las

**NOTICE OF APPEAL**: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date. A copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from MAHS within 30 days of the mailing date of this Hearing Decision, or MAHS **MAY** order a rehearing or reconsideration on its own motion. MAHS **MAY** grant a party's Request for Rehearing or Reconsideration when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The party requesting a rehearing or reconsideration must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings  
Reconsideration/Rehearing Request  
P.O. Box 30639  
Lansing, Michigan 48909-8139

cc:

