



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: August 2, 2018
MAHS Docket No.: 18-004977
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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, an in-person hearing was held on August 1, 2018, from Madison Heights, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Rachel Smith, Assistance Payments Supervisor.

ISSUE

Did the Department properly close Petitioner's Medicare Savings Program (MSP) benefit case?

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 an ongoing MSP benefit recipient.
2. On [REDACTED], 2018, Petitioner completed a redetermination (Exhibit A).
3. On February 14, 2018, the Department sent Petitioner a Verification Checklist (VCL) requesting verification of her assets (Exhibit B).
4. On March 8, 2018, Petitioner submitted verification of her assets to the Department (Exhibit C).

5. On March 14, 2018, the Department sent Petitioner a Health Care Coverage Determination Notice informing her that her MSP benefit case was closing effective April 1, 2018, ongoing, due to excess assets (Exhibit D).
6. On May 7, 2018, Petitioner 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, Petitioner was an ongoing MSP benefit recipient. Petitioner completed a redetermination on [REDACTED], 2018. On February 14, 2018, the Department requested verification of Petitioner's assets. On March 8, 2018, Petitioner submitted verification of her assets.

For MSP benefits, countable assets cannot exceed the limit under BEM 400. BEM 165 (January 2018), p. 8. Countable assets are determined based on MA policies in BEM 400, 401 and 402. BEM 165, p. 8. MSPs are SSI-related MA categories. BEM 165, p. 1. For SSI-Related Medicaid the department will utilize an asset verification program to electronically detect unreported assets belonging to applicants and beneficiaries. BEM 400 (January 2018), p. 1. Asset detection may include the following sources at financial institutions: checking, savings, and investment accounts, IRAs, treasury notes, certificates of deposit (CDs), annuities and any other asset that may be held or managed by a financial institution. BEM 400, p. 1. All types of assets are considered for SSI-related MA categories. BEM 400, p. 3. The value of a retirement plan is the amount of money the person can withdraw from the plan. BEM 400, p. 27. The Department will deduct any early withdrawal penalties, but not the amount of any taxes due. BEM 400, p. 27. Effective January 1, 2017, the asset limit for a group of one for MSP benefits is \$7,390. BEM 400, p. 8.

The Department testified that it closed Petitioner's MSP benefit case because she exceeded the asset limit. The Department presented the asset verifications submitted by Petitioner which showed she has an IRA with a value of \$51,955.89. Petitioner

testified that she is currently withdrawing funds from the account and does not have any early withdrawal penalties. Petitioner stated that she is in a tax bracket of 40%.

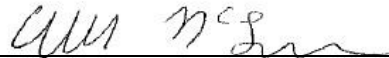
As Petitioner is not subject to any early withdrawal penalties, the entire amount of the IRA is included as an asset. Policy specifically states taxes due are not deducted from the amount of the retirement plan. Petitioner's assets well exceed the asset limit under the MSP benefit program. Therefore, the Department acted in accordance with policy when it closed Petitioner's MSP benefit case.

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 acted in accordance with Department policy when it closed Petitioner's MSP benefit case.

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

EM/cg



Ellen McLemore
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

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 Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS 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. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 763-0155; 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

Via Email:

MDHHS-Oakland-2-Hearings
D. Smith
EQAD
BSC4- Hearing Decisions
MAHS

Petitioner – Via First-Class Mail:

