



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

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Date Mailed: February 15, 2019  
MAHS Docket No.: 18-013416  
Agency No.: ██████████  
Petitioner: ██████ ██████

**ADMINISTRATIVE LAW JUDGE:** Jeffrey Kemm

**HEARING DECISION**

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on February 14, 2019, from Lansing, Michigan. Petitioner, ██████ ██████ appeared with her representative, ██████ ██████. Hearing Facilitator, Brad Reno, and Family Independence Manager, Jenette McDonald, appeared for the Department. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 26-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

**ISSUE**

Did the Department properly terminate Petitioner's 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. Petitioner is a Medicare recipient.
2. Petitioner received full-coverage MA from the Department through the Low-Income Families program.
3. In September 2018, Petitioner share a household with her grandson. Petitioner's grandson was a minor and Petitioner was his legal guardian.
4. In September 2018, Petitioner's sole source of income was \$ ██████ from social security.

5. In September 2018, Petitioner had more than \$ [REDACTED] on deposit in accounts in her name.
6. On September 25, 2018, the Department reviewed Petitioner's eligibility for MA. The Department determined that Petitioner was ineligible for full-coverage MA through the Low-Income Families program because of a change in the Department's income limit. The Department then considered Petitioner for other types of coverage she may be eligible for, and the Department determined that Petitioner was no eligible for any other type of coverage because her assets exceeded the Department's limit.
7. On October 22, 2018, the Department issued a Health Care Coverage Determination Notice which notified Petitioner that she was eligible for Medicare Savings Program coverage but not eligible for other MA effective December 1, 2018.
8. On December 19, 2018, Petitioner filed a hearing request to dispute the Department's decision.

### **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.

Full-coverage MA is available through the Low-Income Families for adults who have (a) a dependent child and (b) a modified adjusted gross income (MAGI) less than 54% of the Federal Poverty Level. BEM 110 (April 1, 2018), p. 1. MAGI is defined as adjusted gross income increased by (1) excluded foreign income, (2) tax exempt interest, and (3) the amount of social security benefits excluded from gross income. 26 USC 36B(d)(2)(B). Adjusted gross income is that which is commonly used for Federal income taxes, and it is defined as gross income minus deductions for business expenses, losses on the sale or exchange of property, retirement contributions, and others. 26 USC 62. MAGI include(s) the gross amount of social security benefits received by a tax filer or her spouse. BEM 503 (October 1, 2018), p. 29-30.

In 2018, the FPL for a household size of two was \$16,460.00. 89 FR 2642 (January 18, 2018), p. 2642-2644. Since the limit for full-coverage MA through the Low-Income Families program is 54% of the FPL, Petitioner's income limit was \$ [REDACTED]. Petitioner's income exceeded the Department's limit for full-coverage MA through the Low-Income Families program because she received \$ [REDACTED] per month, which exceeds \$ [REDACTED] per year. Since Petitioner's income exceeded the Department's limit, the Department acted in accordance with its policies and the applicable law when it found her ineligible for full-coverage MA through the Low-Income Families program.

When full-coverage MA is not available to an individual, the Department must consider other options. BEM 105 (April 1, 2017). Coverage with a deductible is available to those individuals who qualify. In order to qualify for MA coverage with a deductible through the caretaker program or an SSI related program, the individual's group's assets must not exceed \$3,000. BEM 400 (February 1, 2019), p. 6-8. Here, Petitioner's assets exceeded \$3,000 because Petitioner had more than \$3,000 on deposit in accounts in her name.

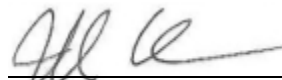
Petitioner argued that her deposit should not have been counted towards her assets because her deposit was composed of backpay from social security which must be excluded. Retroactive social security payments are only excluded for nine calendar months beginning the month after the payment was received. BEM 400, p. 23-24. Here, Petitioner acknowledged that her last backpay was issued in November 2017. Since the Department did not count Petitioner's assets until September 2018, more than nine calendar months had already lapsed. Thus, the backpay was no longer excludable. Therefore, the Department acted in accordance with its policies and the applicable law when it counted her social security backpay as an asset and determined that she was ineligible for MA because her assets exceeded the Department's limit.

**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 act in accordance with its policies and the applicable law when it found Petitioner ineligible for MA beginning December 1, 2018.

IT IS ORDERED the Department's decision is **AFFIRMED**.

JK/nr



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Jeffrey Kemm  
Administrative Law Judge  
for Robert Gordon, 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

**DHHS**

Lindsay Miller  
125 E. Union St 7th Floor  
Flint, MI  
48502

Genesee Union St. County DHHS- via  
electronic mail

BSC2- via electronic mail

D. Smith- via electronic mail

EQAD- via electronic mail

**Authorized Hearing Rep.**

[REDACTED]  
[REDACTED]  
[REDACTED], MI  
[REDACTED]

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED], MI  
[REDACTED]