



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED]

Date Mailed: July 31, 2019  
MOAHR Docket No.: 19-005820  
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 July 29, 2019, from Inkster, Michigan. Petitioner was present with his wife, [REDACTED]. The Department of Health and Human Services (Department) was represented by Valarie Foley, Hearing Facilitator.

**ISSUE**

Did the Department properly close Petitioner's Food Assistance Program (FAP) and Medical Assistance (MA) program benefit cases?

**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 FAP and MA recipient under the Ad-Care program.
2. On March 1, 2019, Petitioner completed a mid-certification review related to his FAP benefit case.
3. On April 23, 2019, an asset detection report was generated as a result of the review (Exhibit A, p. 13).
4. On May 2, 2019, Petitioner submitted verification of his [REDACTED] account (Exhibit A, p. 5-6) and his joint checking account at TCF Bank (Exhibit A, p. 4).

5. Petitioner's wife had unearned income in the form of Retirement, Survivors and Disability Insurance (RSDI) income in the gross monthly amount of \$391.
6. Petitioner had RSDI income in the gross monthly amount of \$809.
7. On May 3, 2019, the Department sent Petitioner a Notice of Case Action (NOCA) informing him that his FAP benefit case was closing effective June 1, 2019, ongoing, as the group exceeded the asset limit (Exhibit A, pp. 14-17).
8. On May 3, 2019, the Department sent Petitioner a Health Care Coverage Determination Notice (HCCDN) informing him that his MA benefit case was closing effective June 1, 2019, as the group exceeded the asset limit (Exhibit A, pp. 8-11).
9. On [REDACTED], 2019, 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).

#### **FAP**

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

In this case, Petitioner and his wife were ongoing FAP recipients. On March 1, 2019, Petitioner completed a mid-certification review of his FAP benefit case. On April 23, 2019, an asset detection report was generated. The Department discovered that Petitioner had a bank account with funds in excess of \$6,000. The Department sent Petitioner a Verification Checklist on April 23, 2019. On May 2, 2019, Petitioner returned verification of his bank account with a current balance of \$6,847.66 and his joint checking account with a current balance of \$938.70. As a result, the Department sent Petitioner a NOCA informing him that his FAP benefit case was closing due to his household's assets exceeding the limit.

When determining asset eligibility, the Department will prospectively use the asset group's assets from the benefit month. BEM 400 (July 2017), p. 3. Asset eligibility exists when the group's countable assets are less than, or equal to, the applicable asset limit at least one day during the month being tested. BEM 400, p. 3. For FAP cases, the

asset limit is \$5,000 or less. BEM 400, p. 5. Assets include checking and savings accounts. BEM 400, p. 15. For FAP cases, the Department will use the lowest checking, savings or money market balance in the month when determining asset eligibility. BEM 400, p. 15. Divestment occurs if a FAP group transfers assets for less than the fair market value for any of the following reasons: (i) to qualify for program benefits or (ii) to remain eligible for program benefits. BEM 400, pp. 5-6. When divestment occurs, the FAP case is closed for the relevant disqualification period. BEM 406 (October 2016), p. 2. 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 212 (April 2019), p. 1.

For the [REDACTED] account, the lowest listed balance was \$6,802.46. Petitioner testified that his and his wife's RSDI benefits were deposited in the account. The Department must exclude both Petitioner's and Petitioner's wife's income. Petitioner's and Petitioner's wife's total combined gross income is \$1,200. When reducing the [REDACTED] total by their income, it results in an asset total of \$5,602.46, which exceeds the asset limit for FAP benefits. Therefore, the Department acted in accordance with policy when it closed Petitioner's FAP benefit case.

## **MA**

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 MA recipient under the Ad-Care program. As stated above, the Department discovered that Petitioner and Petitioner's wife had assets in excess of \$6,000. As a result, the Department sent Petitioner a HCCDN informing him that his MA benefit case was closing as a result of her exceeding the asset limit for her group size.

Ad-Care is an SSI-related MA category. BEM 165 (July 2017), p. 1. For SSI-related MA, countable assets cannot exceed the limit under BEM 400. BEM 165, p. 8. Countable assets are determined based on MA policies in BEM 400, 401 and 402. BEM 165, p. 8. 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. For cash assets, the Department does not

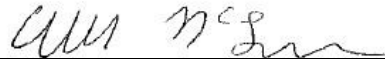
count funds treated as income by a program as an asset for the same month for the same program. BEM 400, p. 22. An asset group includes the individual and the individual's spouse. BEM 211 (January 2016), p. 8. The asset limit under SSI-related MA programs is \$3,000. BEM 400, p. 7.

As stated above, with the exclusion of Petitioner's and Petitioner's wife's income, their asset total in the PNC bank account alone is \$5,602.46. Therefore, the Department acted in accordance with policy when it closed Petitioner's MA 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 FAP and MA benefit cases. Accordingly, the Department's decisions are **AFFIRMED**.

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**Ellen McLemore**  
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 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 Email:**

MDHHS-Wayne-19-Hearings  
M. Holden  
D. Sweeney  
D. Smith  
EQAD  
BSC4- Hearing Decisions  
MOAHR

**Petitioner – Via First-Class Mail:**

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