



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: March 13, 2020  
MOAHR Docket No.: 20-000261  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: John Markey**

**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 March 2, 2020 from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Mark Boyd, Family Independence Manager. During the hearing, a ten-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-10.

**ISSUE**

Did the Department properly close Petitioner's Medicaid (MA) benefits case, effective [REDACTED], 2020?

**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 resides in a household of one and was an ongoing recipient of MA benefits under the full-coverage Health Michigan Plan (HMP). At all times relevant to the instant matter, Petitioner was disabled and enrolled in Medicare.
2. Sometime in late 2019, the Department realized that Petitioner was receiving RSDI of over [REDACTED] per month and was enrolled in Medicare. Because one of the eligibility criteria of HMP is the non-receipt of Medicare, the Department reanalyzed Petitioner's eligibility for other MA benefits.

3. On [REDACTED] 2019, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that, effective [REDACTED], 2020, Petitioner's MA benefits case would be closing. Petitioner was denied from any Group 2 MA eligibility upon a finding that the value of Petitioner's countable assets exceeded the limit for program eligibility. Exhibit A, pp. 5-7.
4. Petitioner owns two vehicles. One is a [REDACTED], and the other is a [REDACTED]. The Department determined that the lowest valued vehicle of those two was worth [REDACTED] by using the NADA Book Clean Retail value. The Rough Trade-In value, which is also the wholesale value, was only [REDACTED]. The Department also reviewed Petitioner's bank statement showing that Petitioner had three accounts at [REDACTED]. The checking account was used for Petitioner's day-to-day spending, and has her monthly income deposited therein each month. Petitioner had a Direct Advantage Share account with a balance of at least \$[REDACTED] each day of the month. Only \$[REDACTED] of deposits and \$[REDACTED] in withdrawals were made during the month in question. The SAVE TO WIN account was around \$[REDACTED]. Exhibit A, pp. 8-10.
5. On [REDACTED], 2020, Petitioner submitted to the Department a request for hearing objecting to the Department's action.

### **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 objected to the Department's closure of her MA benefits case, effective [REDACTED], 2020. Prior to the closure, Petitioner had been receiving full-coverage MA under the HMP for a few years. As Petitioner was disabled and receiving Medicare coverage, she was not eligible for that coverage at relevant point in time. BEM 137 (January 2020), p. 1. When the Department discovered the issue, it reanalyzed Petitioner's eligibility for other MA programs. At the conclusion of that process, Petitioner was found to be ineligible for any other MA program due to the

Department's determination that the value of Petitioner's assets exceeds the limit for program eligibility.

As a disabled person, Petitioner is potentially eligible to receive MA benefits through AD-Care or G2S programs, both of which are SSI-related MA programs. BEM 163 (July 2017), p. 1; BEM 166 (April 2017), p.1. To be eligible for SSI-related MA, the value of an individual's countable assets must be less than or equal to the asset limit at least one day during the month tested, which is \$2,000 for the programs relevant to this matter. BEM 400, pp. 7-8. An asset is countable if it meets the availability tests and is not excluded. BEM 400, p. 2. In general, an asset is considered available to an individual if that individual has the legal right to use or dispose of the asset. BEM 400, p. 10.

Vehicles are countable assets. In determining the value of an individual's vehicles, the Department uses **the lower of** the Kelley Blue Book fair condition value or NADA Book wholesale value. BEM 400, p. 66. The Department then excludes from countability an individual's most valuable vehicle. BEM 400, p. 41. The value of any remaining vehicle is then added together with an individual's other countable assets to determine asset eligibility for the program.

The Department closed Petitioner's MA benefits case, effective [REDACTED] 2020, because the value of her countable assets exceeded the asset limit for the relevant SSI-related MA programs. The Department counted [REDACTED] for the bank accounts and \$[REDACTED] for the [REDACTED]. First, the Department clearly erred in determining that the countable value of Petitioner's [REDACTED] was [REDACTED] by using the NADA Book Clean Retail value instead of the [REDACTED] NADA Book wholesale value. That means that the Department's decision would be affirmed if it could show that the value of Petitioner's remaining countable assets exceeded [REDACTED].

Out of the three bank accounts, one, the Direct Advantage Share, had very little activity but maintained a balance above [REDACTED] at all times during the month, even when excluding the deposits. That account alone never dipped below \$[REDACTED]. While Petitioner had plans to use those funds for certain purposes, they were nonetheless available to Petitioner at all times relevant to the instant matter. Combined with the [REDACTED] vehicle, Petitioner's countable assets were at no point during the month in question less than \$[REDACTED]. As the limit for eligibility was \$2,000, Petitioner was clearly over the limit.

The Department's decision was correct and made in accordance with Department policy and law. At no time was the value of Petitioner's countable assets at or below the threshold for program eligibility. As Petitioner did not satisfy the asset test, the Department properly closed Petitioner's MA benefits case, effective [REDACTED], 2020.


At the hearing, Petitioner emphasized that the monies in those accounts are being held for certain purposes and argued that they should not be considered countable assets in

determining Petitioner's eligibility for MA benefits. While Petitioner's argument is reasonable and the undersigned sympathizes with her situation, the undersigned lacks any authority to grant equitable remedies that deviate from the laws and policies governing the programs. Petitioner is free to apply again, and her eligibility will be based upon her circumstances at that time. Petitioner may request retroactive coverage up to three full months prior to the month of application.

**DECISION AND ORDER**

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

JM/tm

  
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**John Markey**  
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

**DHHS**

Richard Latimore  
4733 Conner  
Detroit, MI  
48215

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

cc: MA- Deanna Smith; EQADHShearings  
AP Specialist-Wayne County