



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
Christopher Seppanen  
Executive Director

SHELLY EDGERTON  
DIRECTOR

[REDACTED]

Date Mailed: March 6, 2017  
MAHS Docket No.: 17-001648  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Eric J. Feldman**

### **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, a three-way telephone hearing was held on March 2, 2017, from Detroit, Michigan. The Petitioner was represented by [REDACTED]. The Department of Health and Human Services (Department) was represented by Karron Smith, Eligibility Specialist from the Greystone office. Also, Richelle Curney, Hearings Facilitator, was present from the Greenfield/Joy office, but she did not provide any testimony.

### **ISSUE**

Did the Department properly close Petitioner's Medical Assistance (MA) and Medicare Savings Program (MSP) benefits effective February 1, 2017?

### **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 recipient of MA – AD-Care and MSP – Qualified Medicare Beneficiaries (QMB) benefits.
2. On November 22, 2016, Petitioner submitted her redetermination in which she reported her checking account balance was zero and her savings account had a balance. Exhibit A, pp. 4-11.

3. On November 22, 2016, Petitioner also submitted verification of her savings account showing a negative balance, but she failed to submit verification of her checking account. Exhibit A, pp. 12-13.
4. On December 29, 2016, the Department sent Petitioner a Verification Checklist (VCL) and a Verification of Assets informing her to provide proof her checking account statement; and it was due back by January 9, 2017. Exhibit A, pp. 16-19.
5. Petitioner failed to provide verification of the checking account by the due date.
6. On January 11, 2017, Petitioner submitted pages 2 and 3 of her checking account statement, but failed to provide the first page. Exhibit A, pp. 20-21.
7. Based on the checking account pages Petitioner provided, she was over the asset limit for MA and MSP benefits.
8. On January 13, 2017, the Department sent Petitioner a Health Care Coverage Determination Notice informing her that she was not eligible for MA and MSP benefits effective February 1, 2017, because she was over the asset limit; and she failed to provide “proof of savings account.” Exhibit A, pp. 22-26.
9. On January 27, 2017, Petitioner provided verification of her checking and savings accounts (the missing first page). Exhibit A, p. 27.
10. On January 27, 2017, Petitioner filed a hearing request, protesting the Department’s action. Exhibit A, p. 3.

### **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 the present case, Petitioner filed a hearing request in which she protested the closure of her MA and MSP benefits. Exhibit A, p. 3. The Department closed Petitioner’s

benefits for two different reasons, over the asset limit and failure to provide verification. The undersigned Administrative Law Judge (ALJ) addresses each closure reason below:

First, the undersigned ALJ finds that the Department properly closed Petitioner's benefits because she failed to comply with the verification requirements. During the redetermination process, the Department requested from Petitioner verification of her checking account. Exhibit A, pp. 16-19. The verification was due on January 9, 2017. Exhibit A, pp. 16-19. Petitioner failed to provide the verification by due date. Petitioner did submit on January 11, 2017, pages 2 and 3 of her checking account statement, but she still failed to provide the first page. Exhibit A, pp. 20-21. For the MA redetermination process, the Department allows clients a full 10 calendar days from the date the verification is requested (date of request is not counted) to provide all documents and information. BAM 210 (January 2017), p. 16. If the tenth day falls on a weekend or holiday, the verification would not be due until the next business day. BAM 210, p. 16. The Department gives timely notice of the negative action if the time limit is not met. BAM 210, p. 16, and see BAM 130 (January 2017), p. 8. In this case, Petitioner failed to comply with the verification requirements because she did not provide the entire checking statement as requested. Of note, the determination notice indicated that she failed to provide "proof of savings account," but it should have stated "proof of checking account." Exhibit A, p. 22. The undersigned ALJ finds this to be a harmless error by the Department because it clearly requested verification of her checking account, and Petitioner failed to comply with this requirement by the due date. Accordingly, the undersigned ALJ finds that the Department properly closed her benefits. BAM 130, p. 8, and BAM 210, p. 16.

Second, the Department also closed Petitioner's MA and MSP benefits because she was over the asset limit. Petitioner was an ongoing recipient of MA – AD-Care and MSP – QMB benefits. AD-Care is a Supplemental Security Income (SSI)-related Group 1 MA category. BEM 163 (July 2013), p. 1. MSP benefits are SSI-related MA categories. BEM 165 (October 2016), p. 1. They are neither Group 1 nor Group 2. BEM 165, p. 1. Asset eligibility is required for SSI-related MA categories. BEM 400 (January 2017), p. 6. 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. BEM 400, p. 6. If an ongoing MA recipient or active deductible client has excess assets, initiate closure. BEM 400, p. 6. For MSP benefits, the asset limit for a group of one is \$7,390 effective January 1, 2017. BEM 400, p. 7, (Petitioner is a group size of one). For all other SSI-related MA categories, the asset limit is \$2,000 for an asset group of one. BEM 400, p. 8. In this case, based on what Petitioner provided to the Department on January 11, 2017, for her checking account, Petitioner had an ending balance of \$10,595.42 for the statement date of December 1, 2016, to December 31, 2016. Exhibit A, p. 21. Based on this amount, the Department concluded she was over the asset limit for both the MA and MSP programs and initiated closure.

In response, Petitioner did not dispute the amount she had in her checking account. In November 2016, Petitioner testified that her prior employment deposited approximately

\$14,000 into her checking account from a 401(k) distribution. She testified that at the beginning of the month, March 1, 2017, she gave her daughter money placing her below the asset limit because she owed her.

Assets must be considered in determining eligibility for SSI-related MA categories, which includes investment accounts (401(k)). BEM 400, p. 1. Funds cannot be counted as both income and as assets in the same month. BEM 500 (January 2016), p. 1. Sometimes funds from a particular source are paid in a way that meets the definition of either lump-sum or accumulated benefit. BEM 500, p. 7. For MA cases, lump-sums and accumulated benefits are income in the month received. BEM 500, p. 7. Income may be countable or excluded. BEM 500, p. 7.


Based on the foregoing information and evidence, the Department properly determined that Petitioner was over the asset limit for MA and MSP benefits. It is a non-issue to determine if whether the distribution of her 401(k) funds in November 2016 should have been countable or excluded income because this month is not at issue. The benefits closed effective February 1, 2017; and at this time, Petitioner was above the asset limit. For November 2016, the distribution received would have been considered income or excluded income. BEM 500, pp. 6-7. But December 2016, ongoing, the funds in her account would have been considered assets based on the value of her checking account. See BEM 500, p. 7, and BEM 400, p. 14, (checking and draft accounts). Petitioner clearly had over \$10,000 in her account as of December 2016; and she admitted that she did not give her daughter the money until March 1, 2017, which meant that she had been over the asset limit during this period. Accordingly, the undersigned ALJ finds that the Department properly closed her MA and MSP benefits because she was over the asset limit. See BEM 400, pp. 1-14, and BEM 500, pp. 6-7.

### **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 properly closed Petitioner's MA and MSP benefits effective February 1, 2017.

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

EJF/jaf

  
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**Eric J. Feldman**  
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) 335-6088; 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**

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**Petitioner**

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