



RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR

[REDACTED]

Date Mailed: December 17, 2018  
MAHS Docket No.: 18-011493  
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 December 12, 2018, from Lansing, Michigan. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by Rechela Hall, Eligibility Specialist. During the hearing, a 16-page packet of documents was offered and admitted as Exhibit A, pp. 1-16.

**ISSUE**

Did the Department properly close Petitioner's Food Assistance Program (FAP) case?

Did the Department properly close Petitioner's Medicaid (MA) case under AD-Care and Qualified Medicare Beneficiaries (QMB) category of the Medicare Savings Program (MSP)?

**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 benefits under the AD-Care and MSP programs.
2. Petitioner was an ongoing recipient of FAP benefits.
3. On April 25, 2018, the Department received an asset detection notice informing the Department that Petitioner had a savings and a checking account with [REDACTED] that exceeded the asset limits for both MA and FAP eligibility. Exhibit A, pp. 1-2.

4. On October 10, 2018, the Department issued to Petitioner a Notice of Case Action informing Petitioner that his FAP case was closing, effective November 1, 2018, as a result of Petitioner's assets exceeding the eligibility limit. Exhibit A, pp. 4-7.
5. On October 10, 2018, the Department issued to Petitioner a Verification Checklist (VCL) requiring Petitioner to provide a current statement showing his balances in both the Chase checking and Chase savings accounts. Exhibit A, pp. 8-9.
6. On October 31, 2018, Petitioner provided the requested verifications to the Department. The statement showed that Petitioner had anywhere from \$30,134.44 to \$34,295.86 spread across the two [REDACTED] accounts. Exhibit A, pp. 10-11.
7. On November 9, 2018, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that his AD-Care and MSP cases were closing, effective December 1, 2018, as a result of Petitioner's assets exceeding the eligibility limits for each program. Exhibit A, pp. 13-16.
8. On October 31, 2018, Petitioner submitted a request for hearing objecting to the closures of his cases.

### **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 CLOSURE**

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 was an ongoing recipient of FAP benefits. On April 25, 2018, the Department received notice that Petitioner had assets well over the asset limit for FAP eligibility. On October 10, 2018, the Department issued to Petitioner a Notice of Case Action informing Petitioner that his FAP case was closing effective November 1, 2018 as a result of the Department's determination that Petitioner's assets exceeded the asset limit for program eligibility.

When determining asset eligibility, the Department will prospectively use the asset group's assets from the benefit month. BEM 400 (October 2018), 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.

The information the Department relied upon showed that in every month from June 2017 through April 2018, Petitioner's total assets in the two [REDACTED] accounts were greater than \$10,000. Petitioner acknowledged at the hearing that the information relied upon by the Department was accurate and that his assets were substantially above the limit at all times relevant to this matter. Accordingly, Petitioner's assets were properly determined to be greater than the asset limit for FAP eligibility. Therefore, the Department acted in accordance with policy when it closed Petitioner's FAP benefit case, effective November 1, 2018.

#### **MA CLOSURE (AD-CARE AND MSP)**

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 beneficiary through AD-Care and the Qualified Medicare Beneficiaries (QMB) category of MSP. On April 25, 2018, the Department received notice that Petitioner had assets well over the asset limit for eligibility for both MA programs. On October 10, 2018, the Department issued to Petitioner a VCL requiring Petitioner to verify the balances held in his [REDACTED] checking and savings accounts. On October 31, 2018, Petitioner returned the required verifications. The verifications showed that Petitioner had a total of anywhere from \$30,134.44 to \$34,295.86 spread across the two accounts. On November 9, 2018, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that his MA cases were closing effective December 1, 2018 as a result of the Department's determination that Petitioner's assets exceeded the asset limit for program eligibility.

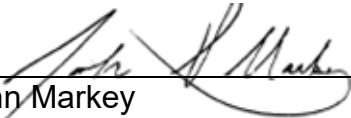
Ad-Care is an SSI-related full-coverage MA program. BEM 163 (July 2017), p. 1. MSP is also an SSI-related MA program. BEM 165 (January 2018), p. 1. For each program, a client's countable assets must be at or below the asset limits found in BEM 400. BEM 163, p. 2; BEM 165, p. 8. Countable assets are determined based on MA policies in BEM 400, 401, and 402. BEM 163, p. 2; BEM 165, p. 8. The asset limit for a group of one for SSI-related MA is \$2,000. BEM 400, p. 8. Asset eligibility exists when the client'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. 7.

Thus, in order for Petitioner to be eligible for the SSI-related MA programs in question, Petitioner's countable assets must be at or below \$2,000 on any day during the month being tested. During the hearing, Petitioner testified that the information contained on the asset detection notice and in the verifications that he provided were accurate. At no time during the relevant time period did Petitioner's total assets equal to or less than \$2,000. Accordingly, Petitioner's assets were properly determined to be greater than the asset limit for SSI-related MA eligibility. Therefore, the Department acted in accordance with policy when it closed Petitioner's AD-Care and MSP cases, effective December 1, 2018.

#### **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 satisfied its burden of showing that it acted in accordance with Department policy when it closed Petitioner's FAP and MA benefits cases. Accordingly, the Department's decisions are **AFFIRMED**.

JM/nr

  
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John Markey  
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

**DHHS**

Randa Chenault  
25620 W. 8 Mile Rd  
Southfield, MI  
48033

Oakland 3 County DHHS- via electronic mail

BSC4- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

D. Smith- via electronic mail

EQAD- via electronic mail

**Petitioner**

