



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

[REDACTED]

Date Mailed: April 26, 2021  
MOAHR Docket No.: 21-001364  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler**

### **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 April 22, 2021. The Petitioner appeared for the hearing and was represented by his Authorized Hearings Representative (AHR) [REDACTED]. The Department of Health and Human Services (Department) was represented by Crystal Hackney, Assistance Payments Supervisor.

### **ISSUE**

Did the Department properly deny Petitioner's Medical Assistance (MA) Program Application?

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

### **FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On [REDACTED] 2020, the Department received Petitioner's MA Application.
2. On January 10, 2021, an Asset Detection was completed for Petitioner which showed that from January 1, 2020 through December 1, 2020, Petitioner had a savings account with [REDACTED] Bank with a low balance of \$15,584.43 and a high balance of \$20,580.34.
3. Petitioner's AHR admits that Petitioner had assets more than \$15,000.00 in the year 2020.

4. On [REDACTED] 2021, the Department issued a Health Care Coverage Determination Notice (HCCDN) to Petitioner informing him that he was not eligible for MA coverage effective January 1, 2021 because he had assets greater than the amount allowed for the program.
5. On February 25, 2021, the Department issued a Notice of Case Action to Petitioner informing him that effective March 1, 2021, his FAP case was closing because he had assets greater than the amount allowed for the program.
6. On March 15, 2021, the Department received Petitioner's request for hearing disputing the denial of his MA Application and closure of his FAP case.

### **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).

Petitioner requested a hearing disputing the denial of his MA Application and closure of his FAP benefits.

#### **Medical Assistance (MA) Program**

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.

Petitioner is disputing the denial of his MA Application based upon excess assets. Since Petitioner is disabled, he is eligible for Ad-Care or Group 2-Aged, Blind, Disabled MA coverage. BEM 105 (January 2021), p. 1; BEM 163 (July 2017), p. 1; BEM 166 (April 2017), p. 1. The eligibility requirements for Group 2 MA and Group 1 MA Ad-Care are the same, other than income. BEM 166 (April 2017), pp. 1-2. For all SSI-related MA categories except Medicare Savings Program (MSP) and Freedom to Work (FTW), the asset limit is \$2,000 for an asset group of one or \$3,000 for an asset group of two. BEM 400 (January 2018), p. 8. Petitioner has an asset group of one. Petitioner had more than \$15,000 in cash assets in his savings account at the time of application. Therefore, Petitioner is ineligible for Ad-Care and G2S MA coverage and the Department acted in accordance with policy by denying Petitioner's Application.

Food Assistance Program (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.

Petitioner also disputed the Department's closure of his FAP case. Policy provides that individuals who apply for FAP benefits cannot have more than \$15,000 in assets. BEM 400 (January 2021), p. 5. Groups with a Senior, Disabled, or Disabled Veteran (SDV) group member have an asset limit of \$15,000 or less if they have income over 200% of the federal poverty level. BEM 400, p. 6. Petitioner is disabled and received a social security disability benefit. Petitioner's AHR admits that Petitioner had more than \$15,000 in his personal savings account throughout 2020, but the Department has not established Petitioner's income level. If Petitioner's income was below 200% of the federal poverty level, the \$15,000 limit does not apply. If Petitioner's income was above 200% of the federal poverty level, the \$5,000 limit applies. Petitioner's Semi-Annual Contact Report indicates that he has gross income of \$1,000.00 per month. If this is accurate, Petitioner has annual income of \$12,000 which is less than 200% of the federal poverty level (FPL) (\$25,760.00), and he is eligible for FAP. <https://aspe.hhs.gov/poverty-guidelines>. Since the Department failed to show Petitioner's budgeted income, the Department has not met its burden of proof in establishing Petitioner's ineligibility based upon excess assets for FAP. BEM 400, p. 6.

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 denied Petitioner's MA Application but failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Petitioner's FAP benefits.

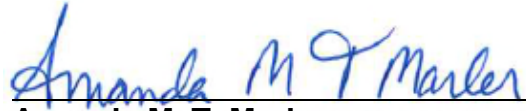
**DECISION AND ORDER**

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to the denial of Petitioner's MA Application and **REVERSED IN PART** with respect to the closure of Petitioner's FAP benefits.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Redetermine Petitioner's FAP eligibility effective March 1, 2021;
2. If otherwise eligible, issue supplements to Petitioner for benefits not previously received; and,

3. Notify Petitioner and his AHR in writing of its decision.



AMTM/cc

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**Amanda M. T. Marler**  
Administrative Law Judge  
for Elizabeth Hertel, 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-Oakland-6303-Hearings  
BSC4-HearingDecisions  
EQADHearings  
C. George  
D. Sweeney  
M. Holden  
MOAHR

**Petitioner- Via USPS:**

[REDACTED]

**Authorized Hearing Rep.- Via USPS:**

[REDACTED]