

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

IN THE MATTER OF:

██████████
██████████
██████████

MAHS Reg. No.: 15-019718
Issue No.: 3001;4001;2001
Agency Case No.: ██████████
Hearing Date: January 12, 2016
County: ISABELLA

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

HEARING DECISION

Following the 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 telephone hearing was held on January 12, 2016, from Lansing, Michigan. The Petitioner, ██████████ ██████████ and her father, ██████████ ██████████ appeared and testified. The Department of Health and Human Services (Department) was represented by Eligibility Specialist, ██████████ ██████████ and Hearing Facilitator, ██████████ ██████████

ISSUES

- 1.) Did the Department properly deny the Petitioner's application for Food Assistance Program (FAP) and State Disability Assistance (SDA)?
- 2.) Did the Department properly determined the Petitioner's eligibility for Medical Assistance (MA) and Medical Cost Sharing (MCS) benefit programs?

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 September 15, 2015, the Petitioner applied for FAP and SDA. (Department's Exhibit A)
2. On September 17, 2015, the Petitioner applied for MA and MCS. (Department's Exhibit A)
3. On August 13, 2015, the Petitioner, via quit claim deed, transferred a parcel of property with a SEV of \$ ██████████ to her sister, for the consideration of \$ ██████████ (Department's Exhibit C, E)

4. The Petitioner receives Retirement, Survivor, and Disability insurance (RSDI) in the amount of \$ [REDACTED] per month. (Department's Exhibit B)
5. On September 15, 2015, the Department sent the Petitioner a DHS-1605, Notice of Case Action informing the Petitioner that her application for SDA was denied due to excess income. (Department's Exhibit H)
6. On September 30, 2015, the Department sent the Petitioner a DHS-1605, Notice of Case Action informing the Petitioner that her application for FAP was denied because the Petitioner transferred an asset for less than fair market value and was now subject to a divestment penalty. (Department's Exhibit I)
7. On October 5, 2015, the Department sent the Claimant a DHS-1606, Health Care Coverage a Determination Notice informing the Petitioner that she had been approved for full MSC coverage and MA coverage with a monthly deductible of \$ [REDACTED] (Department's Exhibit J)

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 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.

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.

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Health and Human Services (formerly known as the Department of Human Services) administers the SDA program pursuant to 42 CFR 435, MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

At the onset of the hearing, the Petitioner testified that she was no longer protesting the Departments MCS determination as she was approved for those benefits. The

Petitioner withdrew that portion of her hearing request for that issue on the record, and as such that portion of her hearing request is hereby dismissed.

In this case, the Petitioner never contested the amounts that the Department budgeted as income. The Petitioner testified, repeatedly, that the property that she transferred was not valued in excess of \$[REDACTED]. The Petitioner testified that she transferred the property to her sister because the property was given to her by her father on the condition that she paid the taxes. The Petitioner testified that she never paid the taxes and the property was almost forfeited. The Petitioner testified that, at the behest of her father, she transferred the property back to her sister because she could not pay the taxes. The Petitioner testified that she transferred the property months before she applied for assistance. That testimony is refuted by documents in the record. (See Department's Exhibits A and C.)

The Petitioner and her father were asked if they had any documents to support the testimony given, such as documents to show that the property was almost forfeited for back taxes or an appraisal to show that the property was not valued as is indicated on the tax bill which is Department's Exhibit E. The Petitioner could not produce any such documents. As such, and based on the fact that the Petitioner's testimony conflicts with documents in the record, the Petitioner's testimony is found to be less than credible and persuasive. This Administrative Law Judge concludes that the Department has met its burden of proving that the Petitioner transferred the asset for the purpose of establishing eligibility for benefits.

Bridges Eligibility Manual (BEM) 406 (2014) p. 1, provides that divestment is defined as the transfer of assets for less than fair market value for the purpose of qualifying for or maintaining eligibility for program benefits. A transfer of assets means giving or selling assets to an individual other than an asset group member. Department personnel are to determine whether divestment occurred if an asset group member knowingly transferred assets during the three calendar months before the application date or knowingly transferred after the household is determined eligible for benefits. If so the Department personnel is to calculate and impose a disqualification penalty. BEM 406 p. 2 provides that the disqualification period for assets that are valued at \$5000 or more is 12 months.

BEM 518 (2015) p. 3, indicates that financial need exists for SDA if there is at least a \$10 deficit after income is budgeted. If there is no deficit, the group is ineligible. The Department's budget in evidence indicates that the payment standard is \$200 and that the Petitioner's RSDI income of \$1223.00 is budgeted leaving no deficit. As such, this Administrative Law Judge concludes that the Department properly determined that the Petitioner has excess income to be eligible for SDA.

The Petitioner never did contest the amount of income budgeted in her MA budget. A review of the Department's MA budget indicates that the Petitioner was awarded her Medicare part B premium expense of \$[REDACTED] leaving her with countable income of \$[REDACTED]. The Department properly applied the protected income limit of \$[REDACTED] leaving the Petitioner with a deductible of \$[REDACTED]. As such, this Administrative Law Judge

concludes that the Department also properly determined the Petitioner's deductible for her MA case.

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 the Petitioner's application for SDA and FAP and when it determined the Petitioner's deductible on her MA case.

DECISION AND ORDER

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



Susanne E. Harris
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Mailed: **1/15/2016**

SEH/nr

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date. A copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from MAHS within 30 days of the mailing date of this Hearing Decision, or MAHS **MAY** order a rehearing or reconsideration on its own motion. MAHS **MAY** grant a party's Request for Rehearing or Reconsideration when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The party requesting a rehearing or reconsideration must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A request must be *received* in MAHS within 30 days of the date this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088 and be labeled as follows:

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

cc:

