



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: August 24, 2017
MAHS Docket No.: 17-009481
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 August 16, 2017, from Lansing, Michigan. Petitioner was represented by herself. [REDACTED] [REDACTED] also appeared and testified for Petitioner. The Department of Health and Human Services (Department) was represented by [REDACTED] [REDACTED] Hearing Facilitator. [REDACTED] [REDACTED] ES, also appeared for the Department. Department Ex. A1-G4 were received and admitted.

ISSUE

Did the Department properly close Petitioner's MA for failing to return verifications and deny Petitioner's FAP application due to excess assets?

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 May 4, 2017, redetermination forms were sent to Petitioner requesting verifications.
2. On June 17, 2017, a Health Care Coverage Determination Notice was sent to Petitioner informing her that her MA benefits were closing due to failing to return redetermination paperwork.

3. Petitioner reapplied for MA benefits and was active for MA at the time of hearing. Petitioner abandoned her appeal with regard to MA benefits.
4. On May 22, 2017, Petitioner applied for FAP benefits.
5. On May 31, 2017, Notice of Case Action was sent to Petitioner informing her that her FAP application was denied due to excess assets.
6. On July 11, 2017, Petitioner requested hearing contesting the closure of MA and denial of FAP.

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.

Deeds are considered legal if they are signed and notarized. It does not have to be registered with the registrar of deeds to be a legal document. BEM 400

In this case, Petitioner abandoned her appeal with regard to the MA closure because she reapplied for MA and was active at the time of hearing.

With regard to FAP, Petitioner was a joint owner with her siblings on several properties. Her siblings resided in those homes and did not pay her rent. Petitioner was told that she needed to sign quit claim deeds to those properties and have the quit claim deeds registered with the register of deeds before the Department would consider her ownership interests to be extinguished. Department policy states that Deeds are considered legal if they are signed and notarized. It does not have to be registered with the register of deeds to be a legal document. BEM 400 The deeds Petitioner provided

on May 24, 2017, were signed and notarized and should have been considered legal. (Dept. Ex. D, pp. 4-13) The Department denial of FAP due to excess assets was improper and incorrect. The Department asserted that the quit claim deeds were not valid until they were filed with the city on June 15, 2017, but Department policy does not support this position.

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 did not act in accordance with Department policy when it denied Petitioner's FAP application due to excess assets.

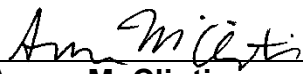
DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to MA and **REVERSED IN PART** with respect to FAP.

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. Reinstate and reprocess Petitioner's FAP application going back to the date of application May 22, 2017.
2. Award FAP benefits going back to May 22, 2017, if Petitioner is found otherwise eligible.

AM/md



Aaron McClintic
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

[REDACTED]

Petitioner

[REDACTED]