



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: October 20, 2017
MAHS Docket No.: 17-010536
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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. After due notice, telephone hearing was held on September 25, 2017, from [REDACTED] Michigan. The Petitioner was represented by her attorney [REDACTED]. Petitioner testified on her own behalf and called [REDACTED] as a witness. The Department was represented by [REDACTED] Assistant Attorney General. [REDACTED] Hearing Facilitator, testified on behalf of the Department.

ISSUE

Did the Department of Health and Human Services (Department) properly close Petitioner's Medical Assistance (MA) benefits?

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 July 19, 2017, the Department received Petitioner's application for Food Assistance Program (FAP) benefits. Exhibit A, pp 3-24.
2. Petitioner reported assets on her application for assistance exceeding \$ [REDACTED]. Exhibit A, pp 3-24.
3. Petitioner was laid off from her employment as of June 29, 2017. Exhibit A, p 2.
4. Petitioner was an ongoing Medical Assistance (MA) recipient as a Disabled Adult Child (DAC).

5. On July 24, 2017, the Department notified Petitioner that it would close her Medical Assistance (MA) benefits based on her countable assets. Exhibit A, pp 43-46.
6. On August 3, 2017, the Department received Petitioner's request for a hearing protesting the closure of her Medical Assistance (MA) benefits. Exhibit A< p 46.

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.

Persons may qualify under more than one MA category. Federal law gives them the right to the most beneficial category. The most beneficial category is the one that results in eligibility or the least amount of excess income. Department of Health and Human Services Bridges Eligibility Manual (BEM) 105 (April 1, 2017), p 2.

Assets means cash, any other personal property and real property. Real property is land and objects affixed to the land such as buildings, trees and fences. Condominiums are real property. Personal property is any item subject to ownership that is not real property. Countable assets cannot exceed the applicable asset limit. An asset is countable if it meets the availability tests and is not excluded. Available means that someone in the asset group has the legal right to use or dispose of the asset. Department of Human Services Bridges Eligibility Manual (BEM) 400 (April 1, 2016), pp 1-7.

The asset limit for a person receiving disability based disability based MA benefits is \$ [REDACTED] as a group of one. BEM 400.

Petitioner was an ongoing MA recipient receiving benefits as a disabled adult child when she was informed by her employer that she would be laid off. Petitioner applied for food assistance and reported the changes to her circumstances on her application for assistance. On her application for assistance, Petitioner reported having assets exceeding \$ [REDACTED] which exceeds the limit to receive disability based MA benefits. On July 24, 2017, the Department notified Petitioner that it would close her MA benefits.

While receiving MA benefits as a disabled adult child, Petitioner was potentially eligible for MA benefits under the Freedom to Work (FTW) program and her countable assets would not disqualify her from participation in the program. Since Petitioner is not currently employed, she is not currently eligible for MA benefits under the FTW program. Further, assets accumulated under the FTW program are excluded from countable assets for other MA categories if eligibility for FTW benefits ends. Department of Health and Human Services Bridges Eligibility Manual (BEM) 174 (January 1, 2017), p 2.

It should also be noted that a temporary break in employment up to 24 months will not result in closure of FTW benefits. BEM 174, p 1.

However, Petitioner was not enrolled in the FTW program. Eligibility for FTW benefits begins the first day in which all eligibility criteria are met. BEM 174. Petitioner is not eligible for FTW benefits effective September 1, 2017, because she was not employed as of that date.

Petitioner is entitled to receive MA under the most beneficial category that she meets the eligibility criteria. Petitioner is not entitled to retroactively select a category of MA benefits based on an unforeseen change of circumstances. If Petitioner had been enrolled in the FTW program, her MA benefits would not have closed effective September 1, 2017, based on her accumulated assets, or due to being laid off from her employment.

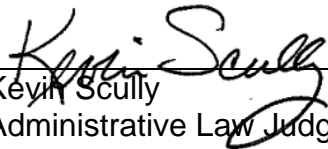
However, as a MA-DAC recipient, Petitioner was no longer eligible for MA benefits effective September 1, 2017, based on her countable assets.

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 closed Petitioner's Medical Assistance (MA) base on her countable assets.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

KS/nr



Kevin Scully
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

Counsel for Respondent

[REDACTED]

DHHS

[REDACTED]

Counsel for Respondent

[REDACTED]

Counsel for Petitioner

[REDACTED]

Petitioner

[REDACTED]