



RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED]

Date Mailed: March 5, 2018  
MAHS Docket No.: 18-000952  
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 February 28, 2018, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by [REDACTED], Assistance Payments Supervisor, and [REDACTED], Assistance Payments Worker.

**ISSUE**

Did the Department properly deny Petitioner deny Petitioner's application for Food Assistance Program (FAP) and 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 December 13, 2017, Petitioner submitted an application for FAP and MA benefits.
2. On December 14, 2017, the Department issued a Verification Checklist (VCL) with proofs due by December 26, 2017.
3. On the same day the Department also issued a Health Care Supplemental Questionnaire.
4. On December 27, 2017, Petitioner returned his proofs to the Department.

5. On January 8, 2018, the Department issued a Health Care Coverage Determination Notice (HCCDN) indicating Petitioner was not eligible for the Medicare Savings Program (MSP) because he did not meet the basic criteria for the program and that he was ineligible for other MA coverage based upon being over the asset limit.
6. On the same day, the Department issued a Notice of Case Action indicating that Petitioner was denied FAP benefits because he was over the asset limit.
7. On January 15, 2018, Petitioner submitted a hearing request disputing the decision to deny him FAP and MA coverage.

### **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).

#### **State Emergency Relief**

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Department of Human Services) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049.

At the time of his request for hearing, Petitioner accidentally checked the box to request a hearing for SER assistance. At the hearing, he testified that checking the box had been a mistake and he did not need a hearing regarding SER assistance. Therefore, Petitioner's request for hearing regarding SER assistance is withdrawn and dismissed.

#### **Food Assistance Program**

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 disputes the denial of benefits based upon being over the asset limit. Petitioner concedes that he had \$ [REDACTED] in his savings account as of December 22, 2017. Petitioner was holding the money for his grand-daughter who is away at college. He has been holding the money for her for several years, and she makes occasional deposits.

Policy provides that individuals who apply for FAP benefits cannot have more than \$5,000 in assets. BEM 400 (January 2018), p. 5. Groups with a Senior, Disabled, or Disabled Veteran (SDV) group member have an asset limit of \$5,000 or less if they have income over 200% of the federal poverty level. BEM 400, p. 6. A senior is defined as someone who is age 60 years of age or older. BPG (October 2017), p. 61. Petitioner is ■ years old and considered to be a senior. Petitioner clearly had more than \$5,000 in his personal savings account around the time of application, but the Department has not established Petitioner's income level. If Petitioner's income was below 200% of the federal poverty level, the \$5,000 limit would not apply. If Petitioner's income was above 200% of the federal poverty level, the \$5,000 limit would apply. Therefore, the Department has not met its burden of proof in establishing Petitioner's ineligibility based upon excess assets. BEM 400, p. 6.

### Medical Assistance

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 denied MA benefits because of excess assets and failing to meet the criteria for the Medicare Savings Program (MSP). MSP is a State administered program in which the State pays an income eligible client's Medicare premiums, coinsurance, and deductibles. BEM 165, (January 2018), p. 2; BAM 810 (January 2018), p. 6. Petitioner stopped receiving Retirement, Survivors, and Disability Insurance (RSDI) on December 1, 2017. When he lost his RSDI income, he lost his eligibility for Medicare part A and part B on the same day. Since Petitioner does not receive Medicare coverage, he does not qualify for the MSP. *Id.*

Turning to the issue of Petitioner's eligibility for other MA coverage, the Department alleges that Petitioner was over the asset limit. Supplemental Security Income (SSI)-related MA coverage is available for those who are aged 65 or older, blind, or disabled. BEM 105 (April 2017), p. 1. Individuals are eligible for Group 1 coverage, with no deductible, if their income falls below the income limit, and eligible for Group 2 coverage, with a deductible that must be satisfied before MA is activated, when their income exceeds the income limit. BEM 105, p. 1. Ad-Care coverage is an SSI-related Group 1 MA category which must be considered before determining Group 2 MA eligibility. BEM 163 (July 2017), p. 1. Eligibility for Ad-Care is based on the client meeting nonfinancial and financial eligibility criteria. BEM 163, pp. 1-2. 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 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. As discussed above, Petitioner had \$ [REDACTED] in cash assets in his savings account at the time of application. Therefore, Petitioner is ineligible for SSI-related MA coverage and the Department acted in accordance with policy by denying Petitioner's MA coverage.

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 policy when it denied Petitioner's MA coverage, but did not meet its burden of proof in showing that it had acted in accordance with policy when it denied Petitioner's FAP application for benefits.

### **DECISION AND ORDER**

The portion of the case attributable to **SER assistance is DISMISSED.**

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

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. Reprocess Petitioner's FAP application from December 13, 2017, ongoing,
2. If Petitioner is eligible for FAP benefits from December 13, 2017, ongoing, issue supplements in accordance with Department policy; and
3. Notify Petitioner in writing of its decision.

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**Amanda M. T. Marler**

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

