



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

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Date Mailed: July 27, 2018
MAHS Docket No.: 18-006099
Agency No.: 125773167
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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 July 18, 2018, from Lansing, Michigan. Petitioner was represented by himself. The Department of Health and Human Services (Department) was represented by Barbara Schram, Family Independence Manager.

ISSUE

Did the Department properly determine Petitioner's eligibility for Food Assistance Program (FAP) and Medical Assistance (MA)?

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 March 21, 2018, Petitioner applied for FAP and MA where he reported a trust/annuity and pension for a household group composition of two for him and his partner. Department Exhibit 1, pgs. 1-19.
2. On March 27, 2018, the Department Caseworker sent Petitioner a Health Care Coverage Supplemental Questionnaire, DHS 1004, that was due back by April 9, 2018, for Petitioner to submit additional information, which was returned by April 19, 2018, but without pension and annuity listed. Department Exhibit 1, pgs. 20-23.

3. On April 20, 2018, the Department Caseworker sent Petitioner a Verification Checklist, DHS 3503, that was due on April 30, 2018, for additional verification to determine FAP and MA eligibility. Department Exhibit 1, pgs. 24-25.
4. On April 26, 2018, the Department Caseworker received a written verification of TIA retirement annuity. Department Exhibit 1, pgs. 26-27.
5. On May 4, 2018, the Department Caseworker sent the annuity documentation to the Office of Legal Services - Trust and Annuities Unit for evaluation.
6. On May 22, 2018, the Department Caseworker sent Petitioner a Health Care Coverage Determination Notice, DHS 1606, that his application for MA was denied due to lack of verification to determine eligibility for MA. Department Exhibit 1, pgs. 28-32.
7. On June 1, 2018, the Unit sent a response based on their evaluation that Petitioner Retirement plan payments were to be counted as unearned income. Department Exhibit 1, pg. 34.
8. On June 12, 2018, the Department received a hearing request from Petitioner, contesting the Department's negative action.
9. On June 21, 2018, the Department Caseworker sent Petitioner a Benefit Notice, DHS 176, that he and his partner was eligible for MA with a monthly deductible of \$1,688. Department Exhibit 1, pgs. 35-36.
10. The Department failed to prepare the FAP portion of the hearing request and was to fax the FAP portion after the hearing. However, it was not received by the due date of the decision. The Department will have to redetermine eligibility for FAP to protect Petitioner's timeliness of his hearing request for 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.

In this case, Petitioner applied for FAP and MA. On May 4, 2018, the Department Caseworker sent the annuity documentation to the Office of Legal Services-Trust and Annuities Unit for evaluation. On June 1, 2018, the Unit sent a response based on their evaluation that Petitioner's retirement plan payments were to be counted as unearned income. Department Exhibit 1, pg. 34.

As a result of his excess income for MA AD-Care with a limit of \$1,391.67 for a fiscal group of two, Petitioner was determined eligible for a MA Spenddown/Deductible case. Department Exhibit 1, pg. 37. Petitioner had retirement income of [REDACTED]. After deductions of a [REDACTED] unearned income general exclusion, a COLA exclusion of [REDACTED], a protected income of [REDACTED], and insurance premiums of [REDACTED], Petitioner had a deductible of \$1,645 that he must meet before being eligible for MA. Department Exhibit 1, pg. 39-40. However, the DHS 176 sent to Petitioner on June 21, 2018, cited a spend-down of \$1,688. BEM 210.

The Department failed to prepare the FAP portion of the hearing request and was to fax the FAP portion after the hearing. However, it was not received by the due date of the decision. The Department will have to redetermine eligibility for FAP to protect Petitioner's timeliness of his hearing request for FAP.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it processed Petitioner's MA budget, because the budgeted amount is different from the amount cited on the notice and the FAP portion of the hearing request was not part of the hearing summary.

DECISION AND ORDER

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

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 of initiating a redetermination of Petitioner's eligibility for FAP and MA retroactive to his application received March 21, 2018.

Based on policy, the Department should provide Petitioner with written notification of the Department's revised eligibility determination and issue Petitioner any retroactive benefits he may be eligible to receive, if any.

CF/dh



Carmen G. Fahie
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) 763-0155; 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

Barbara Schram - 35
2145 East Huron Road
East Tawas, MI 48730

Alcona County, DHHS

BSC1 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

D. Smith via electronic mail

EQAD via electronic mail

Petitioner

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