



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

Date Mailed: July 10, 2018
MAHS Docket No.: 18-005728
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Landis Lain

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 3, 2018, from Lansing, Michigan. Petitioner was represented by herself. The Department of Health and Human Services (Department or Respondent) was represented by Christine Brown, Eligibility Specialist.

Respondent's Exhibit A pages 1-12 were admitted as evidence

ISSUE

Did the Department properly reduce Petitioner's Food Assistance Program (FAP) and Medical Assistance Program (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. Petitioner was receiving FAP and MA benefits.
2. On May 22, 2018, the Department sent Petitioner a verification checklist, requesting a current statement from bank or financial institution DHS 20 Verification of Assets.

3. On May 26, 2018, an eligibility determination was made based upon an asset detection report regarding excess assets in the amount of \$51,001.29 contained in Petitioner's account.
4. On May 31, 2018, a health care coverage determination notice was sent out to Petitioner stating at her MA was cancelled because Petitioner's assets were higher than allowed for the program.
5. On June 5, 2018, a budget was generated for Petitioner. It was determined that Petitioner had \$56,020.31 in assets and total countable resources which resulted in a determination of excess assets.
6. On June 14, 2018, the Michigan Administrative Hearing System received a Request for Hearing to contest the negative action.

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.

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.

Pertinent Department policy dictates:

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department will provide an administrative hearing to review the decision and determine the appropriateness. The Michigan Administrative Hearing System (MAHS) may grant a hearing for any of the following:

- Denial of an application and/or supplemental payments.

- Reduction in the amount of program benefits or service.
- Suspension or termination of program benefits or service.
- Restrictions under which benefits, or services are provided.
- Delay of any action beyond standards of promptness.
- For FAP only, the current level of benefits or denial of expedited service.
Department of Human Services Bridges Administrative Manual (BAM) 600
(April 1, 2017), pp 3-4.

The client or AHR has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received in the local office within the 90 days. BAM 600, page 6

Department policy requires the department to count and budget all income received that is not specifically excluded. There are 3 main types of income: countable earned, countable unearned, and excluded. Earned income means income received from another person or organization or from self-employment for duties that were performed for remuneration or profit. Unearned income is any income that is not earned. The amount of income counted maybe more than the amount a person actually receives, because it is the amount before deductions are taken including the deductions for taxes and garnishments. The amount before any deductions are taken is called a gross amount. BEM, item 500, p. 1.

Income means a benefit or payment received by an individual which is measured in money. It includes money an individual owns even if not paid directly such as income paid to a representative. Income remaining after applying the policy in the income related items is called countable. This is the amount used to determine eligibility and benefit levels. Count all income that is not specifically excluded. BEM 500, page 1

Gross income is the amount of income before any deductions such as taxes or garnishments. This may be more than the actual amount an individual receives. BEM 500, pages 4-5

FIP, RCA, SDA, G2U, G2C, RMA, SSI-Related MA Only and CDC

Use this exclusion only if the funds are not commingled with countable assets and not in time deposits. Exclude funds an owner received for repairs or replacement of a damaged or destroyed homestead (example: insurance settlement) if both of the following are true:

- The owner intends to reoccupy the home.
- There is a written repair/replacement agreement.

The client must declare an estimated completion date. The exclusion lasts until that date. The local office may grant extensions. Exclude funds for temporary housing while the homestead is being repaired or replaced. Also see Homestead-Loss Land Exclusion in this item regarding the land the home was on.

FAP

Exclude any governmental payments which are designated for the restoration of a home damaged in a disaster if the household is subject to a legal sanction if the funds are not used as intended. Examples include, but are not limited to, payments made by the Department of Housing and Urban Development through the individual and family grant program or disaster loans or grants made by the Small Business Administration. BEM 400, page 18

FIP, RCA, SDA, G2U, G2C, RMA, SSI-Related MA Only, CDC and FAP

Use this exclusion only if the funds are not commingled with countable assets and are not in time deposits. Exclude funds received for the planned repair or replacement of a non-homestead exempt item (example: furniture, clothing, vehicle) that was lost, stolen or destroyed. Exclude the funds until the item is repaired or replaced. BEM 400, page 19

Petitioner testified that she has epilepsy and is disabled. She lost everything last year and the funds she received were an insurance settlement which she thought should be exempted for purposes of Food Assistance and Medical Assistance eligibility.

In the instant case, Petitioner claimed that she received an insurance settlement for the loss of her homestead last year. However, there is no evidence that she notified the Department when she received the funds that they were for replacement or restoration of her lost homestead or belongings, at the time she received the funds.

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. Obtain verification when:

- Required by policy. Bridges Eligibility Manual (BEM) items specify which factors and under what circumstances verification is required.
- Required as a local office option. The requirement must be applied the same for every client. Local requirements may not be imposed for Medicaid Assistance (MA).
- Information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. The questionable information might be from the client or a third party. Verification is usually required at application/redetermination and for a

reported change affecting eligibility or benefit level. Bridges Administrative Manual (BAM) 130, page 1

Tell the client what verification is required, how to obtain it, and the due date; see Timeliness of Verifications in this item. Use the DHS-3503, Verification Checklist (VCL), to request verification. (BAM 130, page 3)

Allow the client 10 calendar days (or other time limit specified in policy) to provide the verification that is requested.

Verifications are considered to be timely if received by the date they are due. For electronically transmitted verifications (fax, email or Mi Bridges document upload), the date of the transmission is the receipt date. Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a MDHHS representative are considered to be received the next business day. Send a negative action notice when:

- The client indicates refusal to provide a verification, or
- The time period given has elapsed and the client has not made a reasonable effort to provide it. (BAM 130, page 7)

Note: For FAP only, if the client contacts the department prior to the due date requesting an extension or assistance in obtaining verifications, assist the client with the verifications but do not grant an extension. Explain to the client they will not be given an extension and their case will be denied once the VCL due date is passed. Also, explain their eligibility will be determined based on their compliance date if they return required verifications. Reregister the application if the client complies within 60 days of the application date; see BAM 115, Subsequent Processing. (BAM 130, page 7)

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 has not established by the necessary competent, material and substantial evidence on the record that it was acting in accordance with department policy when it determined that Petitioner was ineligible to receive FAP benefits and MA benefits. Verification requirements allow a client time to establish their claims through verification. Verification checklist went out May 22, 2018, and were due on June 1, 2018, the same date that Petitioner requested a hearing, according to the Hearing summary. There is no evidence on the record that a meaningful prehearing conference allowed resolution of the issues. The Department has not established its case by a preponderance of the evidence.

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:

1. Initiate redetermination of Petitioner's MA and FAP benefits and determine if the monies received by Petitioner were received for home damage or disaster;
2. If Petitioner is otherwise eligible, reinstate Petitioner's MA and FAP benefits to the date of closure and notify Petitioner of her eligibility or lack thereof; and
3. If eligibility is determined, pay to Petitioner any benefits she is entitled to in accordance with Department policy from the date of program closure forward.

LL/bb



Landis Lain
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

Randa Chenault
25620 W. 8 Mile Rd
Southfield, MI 48033

Oakland County (District 3), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

L. Karadsheh via electronic mail

Petitioner

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]