



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: October 26, 2018
MAHS Docket No.: 18-006744
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 October 22, 2018, from Detroit, Michigan. Petitioner was present with his wife, [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly deny Petitioner's application for 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 February 27, 2018, Petitioner submitted an application for MA benefits.
2. Petitioner was married, was a recipient of Medicare benefits, was not the caretaker of any minor children and was a disabled individual.
3. On April 2, 2018, Petitioner submitted a Health Care Coverage Supplemental Questionnaire and verification of his assets (Exhibit A).
4. On April 10, 2018, the Department sent Petitioner a Health Care Coverage Determination Notice informing him that his application for MA benefits was denied as of February 1, 2018, ongoing, as his countable assets exceeded program limits (Exhibit C).

5. On July 2, 2018, Petitioner submitted a request for hearing disputing the Department's actions.
6. On September 11, 2018, an Order of Dismissal was issued dismissing Petitioner's request for hearing for his failure to attend the September 10, 2018 scheduled hearing.
7. On September 25, 2018, an Order Vacating the Dismissal and Order Scheduling Matter for Hearing was issued vacating the dismissal order issued on September 11, 2018. As such, the matter was scheduled for a hearing on October 22, 2018.

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.

In this case, Petitioner submitted an application for MA benefits on February 27, 2018. Petitioner was a Medicare recipient and was not the caretaker of any minor children. Petitioner was determined to be a disabled individual. As a result, the only MA programs for which Petitioner qualified were the SSI-related MA programs. BEM 137 (April 2018), p. 1; BEM 135 (October 2015), p. 1; BEM 163 (July 2017), p. 1; BEM 166 (April 2017), p. 1.

For SSI-related MA, countable assets cannot exceed the limit under BEM 400. BEM 165, p. 8. Countable assets are determined based on MA policies in BEM 400, 401 and 402. BEM 165, p. 8. For SSI-Related Medicaid the department will utilize an asset verification program to electronically detect unreported assets belonging to applicants and beneficiaries. BEM 400 (January 2018), p. 1. Asset detection may include the following sources at financial institutions: checking, savings, and investment accounts, IRAs, treasury notes, certificates of deposit (CDs), annuities and any other asset that may be held or managed by a financial institution. BEM 400, p. 1. All types of assets are considered for SSI-related MA categories. BEM 400, p. 3. The asset limit for a group of two for SSI-related MA is \$3,000. BEM 400, p. 8.

As Petitioner was married, and per policy, his fiscal group size for SSI-related MA benefits was two. BEM 211 (January 2016), p. 8. Therefore, Petitioner's assets could not exceed \$3,000 to be eligible for SSI-related MA.

The Department testified that Petitioner's application for MA benefits was denied because he exceeded the asset limit for a group size of two. The Department presented Petitioner's MA asset budget to establish that Petitioner exceeded the asset limit (Exhibit B). According to the budget provided, Petitioner had [REDACTED] in liquid assets. The Department also presented the asset verifications submitted by Petitioner. Petitioner had three joint accounts with his wife at [REDACTED] with the lowest monthly balance totaling [REDACTED]; [REDACTED]; and [REDACTED] in the three accounts (Exhibit A, pp. 5-6). Additionally, Petitioner had a checking account at [REDACTED] with the lowest monthly balance of [REDACTED] (Exhibit A, pp. 7-8). According to the asset summary submitted by the Department, the Department gave the [REDACTED] account a [REDACTED] value. Between the [REDACTED], Petitioner's assets totaled [REDACTED].

According to the Health Care Coverage Supplemental Questionnaire, Petitioner has monthly Social Security income and Petitioner's wife has income from employment. When determining asset eligibility, the Department considers cash, investments, retirement plans, and trusts. BEM 400, p. 1. Cash assets include funds in a checking and savings account. BEM 400, p. 15. For cash assets, the Department does not count funds treated as income by a program as an asset for the same month for the same program. BEM 400, p. 22. An asset group includes the individual and the individual's spouse. BEM 211 (January 2016), p. 8.

It is evident from the Department's asset budget and asset summary that the Department did not consider Petitioner or Petitioner's wife's income. Per policy, for cash assets, the Department should not consider any funds treated as income by a program as an asset for the same month for the same program. It appears from the asset verifications for [REDACTED] submitted by Petitioner that Petitioner's wife received payroll direct deposits. Additionally, it appears that Petitioner received a deposit from the Social Security Administration in his [REDACTED] account, which is likely his Social Security benefits. Therefore, the Department did not act in accordance with policy when determining Petitioner's asset total. As such, the Department did not act in accordance with policy when it denied Petitioner's application for MA benefits.

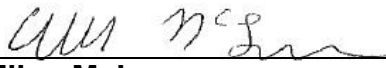
DECISION AND ORDER

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 application for MA benefits. 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. Reinstatement and reprocess Petitioner's application for MA benefits;
2. If Petitioner is eligible for MA benefits, provide him with MA coverage he is entitled to receive in accordance with Department policy; and
3. Notify Petitioner of its MA decision in writing.

EM/cg



Ellen McLemore
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

Via Email:

MDHHS-Macomb-12-Hearings
D. Smith
EQAD
BSC4- Hearing Decisions
MAHS

Petitioner – Via First-Class Mail:

[REDACTED]
[REDACTED]
[REDACTED]