



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]
Date Mailed: April 18, 2019
MAHS Docket No.: 19-002408
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 April 10, 2019, from Detroit, Michigan. Petitioner appeared and was unrepresented. [REDACTED], Petitioner's son, testified on behalf of Petitioner. The Michigan Department of Health and Human Services (MDHHS) was represented by Bridgette Ivey, specialist, and Cathy Burr, supervisor. [REDACTED] of [REDACTED] participated for a portion of the hearing as an as-needed Arabic-English translator.

ISSUE

The issue is whether MDHHS properly denied Petitioner's applications for Food Assistance Program (FAP) and Family Independence Program (FIP) benefits due to excess assets.

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 11, 2019, Petitioner applied for FAP, FIP, and Medical Assistance (MA) benefits.
2. On an unspecified date, MDHHS received bank documents from Petitioner for the period from January 23, 2019, to March 4, 2019. Petitioner's highest balance was \$16,571.40 on March 4, 2019, and Petitioner's lowest balance was \$46.40

on February 27, 2019. An opening balance of \$13,000 was listed, as well as a deposit on March 4, 2019, for \$16,425. Exhibit A, pp. 8-9.

3. In determining Petitioner's assets for FAP and FIP, MDHHS determined that Petitioner had \$16,458.31 in cash assets. Exhibit A, p. 7.
4. On March 5, 2019, MDHHS denied Petitioner's applications for FAP and FIP benefits due to allegedly excess assets.
5. On March 5, 2019, MDHHS approved Petitioner's children for Medicaid restricted to emergency services only (ESO). Exhibit A, pp. 21-24.
6. On [REDACTED], 2019, Petitioner requested a hearing to dispute the denial of FAP and FIP benefits. Petitioner also disputed her children's Medicaid eligibility. Exhibit A, p. 2.
7. On April 10, 2019, during an administrative hearing, Petitioner withdrew her dispute of Medicaid.

CONCLUSIONS OF LAW

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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute Medicaid eligibility for her children. A Health Care Coverage Determination Notice (Exhibit A, pp. 21-24) dated March 5, 2019, stated that Petitioner's children were eligible for Medicaid restricted to ESO. Exhibit A, pp. 21-21. Petitioner testified that she is content with the current status of Medicaid and no longer needs a hearing. Based on Petitioner's withdrawal of her hearing request, Petitioner's hearing request will be dismissed concerning Medicaid eligibility.

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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Department of Human Services) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner also requested a hearing to dispute application denials of FAP and FIP benefits. A Notice of Case Action (Exhibit A, pp. 3-6) dated March 5, 2019, stated that Petitioner was denied both programs due to excess assets.¹

Assets must be considered in determining eligibility for FAP benefits. BEM 400 (January 2019), p. 1. Countable assets for the FIP include cash in savings and checking accounts. *Id.* For FIP, asset eligibility exists when countable assets are less than or equal to the applicable asset limit for at least one day of the month being tested. *Id.*, p. 3. The FAP asset limit is \$3,000. *Id.*, p. 5.

Assets must be considered in determining eligibility for FIP benefits. BEM 400 (January 2019), p. 1. Countable assets for the FAP include cash in savings and checking accounts. *Id.* For FAP, asset eligibility exists when countable assets are less than or equal to the applicable asset limit for at least one day of the month being tested. *Id.*, p. 3. The FAP asset limit is \$5,000. *Id.*, p. 5.

MDHHS presented a budget verifying that Petitioner's cash assets of \$16,458.31 were counted. Exhibit A, p. 7. MDHHS could not state precisely how Petitioner's cash assets were calculated. MDHHS testimony did indicate that most of the counted cash assets came from a bank statement which listed a \$16,425 for Petitioner on March 4, 2019.

MDHHS' counting of Petitioner's deposit as a cash asset fails to comply with policy requiring MDHHS to factor whether Petitioner had fewer cash assets on another date in the benefit month. For February 2019, Petitioner's lowest daily balance was \$46.40 on February 27, 2019. For March 2019, Petitioner's lowest cash balance was \$146.40 on March 1, 2019.

The failure by MDHHS to factor Petitioner's lowest cash balance resulted in an improper counting of Petitioner's assets. The improper calculation led to improper denials of FAP and FIP benefits. Petitioner is entitled to a proper calculation of her assets in accordance with MDHHS policy.

During the hearing, MDHHS contended that divestment also factored into the denial of FAP and FIP benefits. the MDHHS testimony was contradictory to the written notice

¹ The notice also included a second reason for denial of FAP benefits – insufficient documentation of a group member's immigration status. Immigration status was not evaluated as a basis for denial because it was not referenced by MDHHS during the hearing; thus, it is presumed to no longer be a valid basis for denial.

which did not state that Petitioner was denied due to divestment of assets. The MDHHS testimony was also contradictory to their own summary of the case which did not reference divestment. Exhibit A, p. 1. Thus, the MDHHS claim that Petitioner divested assets was not considered.²

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner withdrew her dispute over her children's Medicaid eligibility. Concerning Medicaid eligibility, Petitioner's hearing request is **DISMISSED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly denied Petitioner's applications for FAP and FIP benefits. It is ordered that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

- (1) Reregister Petitioner's application for FAP and FIP benefits dated February 11, 2019;
 - (2) Recalculate Petitioner's eligibility for FAP and FIP benefits subject to the finding that MDHHS failed to factor whether Petitioner's countable assets were less than or equal to the applicable asset limit for at least one day of the month being tested; and
 - (3) Issue a supplement of any benefits improperly not issued.
- The actions taken by MDHHS are **REVERSED**.

CG/cg



Christian Gardocki

Administrative Law Judge

for Robert Gordon, Director

Department of Health and Human Services

² Petitioner's alleged divestment of assets may be relevant when MDHHS redetermines Petitioner's FAP and FIP eligibility. If divestment is relevant, MDHHS is expected to factor Petitioner's claim that she only possessed the bulk of cash assets so they could be transferred to a relative. If MDHHS determines that Petitioner divested assets, MDHHS is expected to issue notice stating that divestment was the basis for application denial.

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-Washtenaw-20-Hearings
B. Sanborn
B. Cabanaw
M. Holden
D. Sweeney
D. Smith
EQAD
MAHS

Petitioner – Via First-Class Mail:

[REDACTED]
[REDACTED]
[REDACTED]