



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

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Date Mailed: April 30, 2019
MOAHR Docket No.: 19-003050
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, telephone hearing was held on April 24, 2019, from Lansing, Michigan. Petitioner represented himself. The Department was represented by Valarie Foley.

ISSUE

Did the Department of Health and Human Services (Department) properly determine Petitioner's eligibility for Medical Assistance (MA) and Food Assistance Program (FAP) 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 ██████████ 2019, the Department registered Petitioner's application for Medical Assistance (MA) and Food Assistance Program (FAP) benefits.
2. On February 15, 2019, the Department sent Petitioner a Verification Checklist (DHS-3503) requesting verification of all bank accounts by February 25, 2019. Exhibit A, pp 4-6.
3. On March 13, 2019, the Department notified Petitioner that his ██████████ 2019, application for Food Assistance Program (FAP) had been denied. Exhibit A, pp 7-10.
4. On March 13, 2019, the Department notified Petitioner that his ██████████ 2019, application for Medical Assistance (MA) had been denied. Exhibit A, pp 11-14.

5. On March 15, 2019, the Department received verification of the sale of Petitioner's business. Exhibit A, pp 15-20.
6. On March 15, 2019, the Department received Petitioner's income tax return. Exhibit A, pp 33-67.
7. On March 22, 2019, the Department received Petitioner's request for a hearing. Exhibit A, pp 1-2.

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.

Persons may qualify under more than one MA category. Federal law gives them the right to the most beneficial category. The most beneficial category is the one that results in eligibility or the least amount of excess income. Department of Health and Human Services Bridges Eligibility Manual (BEM) 105 (April 1, 2017), p 2.

Clients must cooperate with the local office in determining initial and ongoing eligibility and this includes the completion of necessary forms. Department of Human Services Bridges Assistance Manual (BAM) 105 (January 1, 2019), p 8.

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level when it is required by policy, required as a local office option, or information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. The Department uses documents, collateral contacts, or home calls to verify information. A collateral contact is a direct contact with a person, organization, or agency to verify information from the client. When documentation is not available, or clarification is needed, collateral contact may be necessary. Department of Human Services Bridges Assistance Manual (BAM) 130 (April 1, 2017), pp 1-10.

Assets means cash, any other personal property and real property. Real property is land and objects affixed to the land such as buildings, trees and fences. Condominiums are real property. Personal property is any item subject to ownership that is not real property. Countable assets cannot exceed the applicable asset limit. An asset is countable if it meets the availability tests and is not excluded. Available means that someone in the asset group has the legal right to use or dispose of the asset. Department of Human Services Bridges Eligibility Manual (BEM) 400 (April 1, 2019), pp 1-7.

The income limit to participate in the Healthy Michigan Plan (HMP) is 133% of the federal poverty level. Department of Health and Human Services Reference Table Manual (RFT) 246 (April 1, 2014), p 1.

The Healthy Michigan Plan (HMP) does not have an asset test. Department of Health and Human Services Bridges Eligibility Manual (BEM) 137 (January 1, 2019), p 4.

On [REDACTED] [REDACTED] 2019, the Department registered Petitioner's application for MA benefits. Petitioner received a regular payment from the sale of a business. The business is a countable asset, and BEM 400 directs the Department to treat an asset converted from one form to another (example: an item sold for cash) as an asset. BEM 400, p 2. The Department determined that Petitioner's monthly income exceeds 133% of the federal poverty level for his household and then determined his eligibility for categories of MA that have countable asset limits. When Petitioner failed to provide verification of the balance of all bank accounts known to the Department, or provide verification that the accounts had been closed, the Department denied Petitioner's application for MA.

This Administrative Law Judge finds that the Department failed to establish that Petitioner is not eligible for HMP benefits based on his income.

The asset limit for Food Assistance Program (FAP) benefits is \$5,000. BEM 400, p 5.

Petitioner applied for FAP benefits, which has an asset limit. When Petitioner failed to properly verify his countable assets, the Department was unable to accurately determine his eligibility for FAP benefits. Therefore, the Department was acting in accordance with policy when it denied Petitioner's FAP application on March 13, 2019.

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 Department policy when it denied Food Assistance Program (FAP) benefits but did not act in accordance with Department policy when it determined Petitioner's eligibility for Medical Assistance (MA).

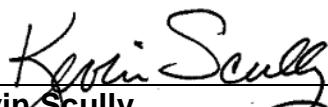
DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED with respect to the Food Assistance Program (FAP) and REVERSED with respect to eligibility for Medical Assistance (MA).

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:

Re-register the February 12, 2019, application for assistance and initiate a determination of the Petitioner's eligibility for Medical Assistance (MA) in accordance with policy.

KS/dh



Kevin Scully
Administrative Law Judge
for Robert Gordon, 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 Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR 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. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

Susan Noel
26355 Michigan Ave.
Inkster, MI 48141

Wayne County (District 19), DHHS

BSC4 via electronic mail

EQAD via electronic mail

D. Smith via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

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