



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: January 24, 2018
MAHS Docket No.: 17-015234
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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, an in person hearing was held on January 18, 2018 from Southfield, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Ser.

ISSUE

Did the Department properly close the Petitioner's Food Assistance (FAP) and Medical Assistance (MA) 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. The Petitioner and his wife were ongoing recipients of Medical Assistance and Food Assistance. The FAP group has two members and the MA group consists of two members, Petitioner and his wife.
2. The Department issued a Health Care Coverage Determination Notice on November 13, 2017 finding the Petitioner eligible for the Medicare Savings Program effective October 1, 2017 and closing the Petitioner's Medicaid due to Petitioner's assets exceeding the \$3,000 asset limit for Medicaid effective December 1, 2017. Exhibit B

3. The Department issued a Notice of Case Action dated November 13, 2017 closing the Petitioner's Food Assistance on December 1, 2017 due to Petitioner's assets exceeding the FAP asset limit of \$5,000. Exhibit A.
4. The Department sent the Petitioner a Verification Checklist on October 24, 2017 requesting information regarding Petitioner's Bank Account and valuation information on a parcel of land in [REDACTED], Michigan. Exhibit C. The verifications were timely provided. Exhibit E and F.
5. The Petitioner provided information on the parcel of land with a parcel ID # [REDACTED] located in the City of [REDACTED], Michigan which listed the assessed value of the property as \$10,120. Exhibit E and Exhibit G.
6. The Petitioner's also own a home in which they live which is an exempt asset.
7. The Petitioner requested a timely hearing on [REDACTED], 2017.

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, the Department closed the Petitioner's MA and FAP case due to excess assets. Both programs have asset limit which if exceeded cause a group to be ineligible. The asset limit for Food Assistance for a group of two persons is \$5,000 or less. BEM 400 (January 2018), p.3. The Medicaid asset limit for a MA asset group of 2 is \$3,000. BEM 400, p. 8. Assets must be considered in determining eligibility for FIP, SDA, RCA, G2U, G2C, RMA, SSI-related MA categories, CDC and FAP. BEM 400, (January 2018), p.1.

The issue in this matter concerns what the equity value is of a vacant parcel of land in [REDACTED] Michigan owned by Petitioner. The land has an assessed value of \$10,012, as determined by the taxing authority, the City of [REDACTED]. In addition there is a federal tax lien owed by Petitioner asserted by the [REDACTED] government through the U. S. Department of Treasury which was recorded by the Department of Treasury as a Notice of Federal Tax lien in in the amount of \$167,637.64. Exhibit I

Assets mean:

- Cash (see Cash in this item).
- Personal property. **Personal property** is any item subject to ownership that is not real property (examples: currency, savings accounts and vehicles).
- Real property. **Real property** is land and objects affixed to the land such as buildings, trees and fences. Condominiums are real property.

Overview of Asset Policy

Countable assets **cannot** exceed the applicable asset limit. Not all assets are counted. Some assets are counted for one program, but not for another program. Some programs do **not** count assets; see **Programs With No Asset Test** in this item.

Consider both of the following to determine if an asset is countable, and how much to count:

- Availability:
 - See **Available in this item**.
 - See **Jointly Owned Assets** in this item.
 - See **Non-Salable Assets** in this item.
- See **Exclusions** in this item.

An asset is countable if it meets the availability tests and is **not** excluded. BEM 400, p.2.

All types of assets are considered for SSI-related MA categories. BEM 400

To determine the asset value of real estate for **SSI related MA only and FAP** Department policy provides:

SSI-Related MA Only and FAP

The value is the equity value. Equity value is the fair market value minus the amount legally owed in a written lien provision.

Liens must be filed with the register of deeds or other appropriate agency.

Deeds are considered legal if they are signed and notarized. It does not have to be registered with the registrar of deeds to be a legal document. BEM 400, P. 32

The Petitioner's spouse owns the parcel of vacant land in [REDACTED] Michigan in question. The Department determined based upon the assessed value for the property of \$10,120, that the land caused the Petitioner to have assets in excess of the applicable asset limits for FAP and MA. Exhibit D. Real estate is considered an asset. Based upon the information provided by Petitioner, the Department determined that the vacant parcel had a value of \$10,120 and determined that Petitioner's assets exceeded the asset limit for both Medical Assistance and Food Assistance and closed the Petitioner's MA and FAP cases.

As part of a requested verification, the Petitioner presented evidence to the Department of a Notice of Federal Tax lien which was identified in connection with the vacant real property in the City of [REDACTED] which the Department considered the excess asset. The lien appeared as part of a request for a policy of title insurance because the Petitioner's property had a potential buyer for approximately \$6,000. The title commitment was dated March 17, 2017. Exhibit G. Exceptions listed in the title policy with respect to the purchase of the parcel of vacant land disclosed a Federal Tax Lien in the amount of \$167,637.64 against [REDACTED], (Petitioner) recorded August 17, 2015 in [REDACTED], page [REDACTED]. Exhibit G. The lien also was verified by a Notice from the U.S. Department of Treasury in a letter dated August 20, 2015 to Petitioner. Exhibit I. The Title Commitment issued by the title company required that the tax lien be discharged by a release of lien before the real estate could be sold. Exhibit G, p. 39 and 41. The real estate was not sold by Petitioner because the lien could not be discharged, as Petitioner has no funds to discharge the lien.

Based upon the facts presented, it is determined that the asset identified as a vacant parcel of land at issue in this case with an assessed value of \$10,120 has no equity value as there is an amount legally owed for the outstanding Federal Tax Lien which when deducted from the value of the property causes the land to have an equity value of zero. BEM 400, p. 32.

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 closed the Petitioner's FAP and MA case due to excess assets.

DECISION AND ORDER

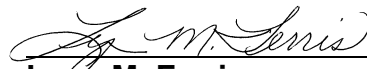
Accordingly, the Department's decision is

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. The Department shall reinstate the Petitioner's FAP and MA effective as of the date(s) of closure.
2. The Department, if it determines that Petitioner remains otherwise eligible to receive FAP benefits, shall issue a FAP supplement to the Petitioner for FAP benefits the Petitioner is otherwise eligible to receive in accordance with Department policy.

LF/cg



Lynn M. Ferris
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) 335-6088; 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-Oakland-3-Hearings
M. Holden
D. Sweeney
M. Best
EQAD
BSC4-Hearing Decision
MAHS

**Authorized Hearing Rep.
Via – First Class-Mail:**

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

**Petitioner
Via First Class Mail:**

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]