



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: January 9, 2018
MAHS Docket No.: 17-015648
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Eric J. Feldman

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 January 8, 2018, from Lansing, Michigan. Petitioner was present for the hearing and represented himself. The Department of Health and Human Services (Department) was represented by Jessie Bailey, Assistant Payment Supervisor.

ISSUES

Did the Department properly deny Petitioner's Food Assistance Program (FAP) application effective November 13, 2017?

Did the Department properly deny Petitioner's State Disability Assistance (SDA) application effective December 1, 2017?

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 November 13, 2017, Petitioner applied for FAP and Cash Assistance (SDA) benefits. [Exhibit A, pp. 19-42.]
2. In the application, Petitioner reported the following: (i) he was currently attending college full-time; (ii) he was disabled; and (iii) he has a checking account. [Exhibit A, pp. 21, 29, and 30.]

3. On November 15, 2017, the Department completed a telephone interview with Petitioner, in which the caseworker documented that Petitioner reported he was a full-time student. [Exhibit A, pp. 1 and 17.]
4. On November 15, 2017, the Department sent Petitioner a Notice of Case Action notifying him that his FAP application was denied effective November 13, 2017, due to ineligible student status. [Exhibit A, pp. 4-7.]
5. On November 15, 2017, the Department sent Petitioner a Verification Checklist (VCL) requesting proof of disability, vehicle value, checking account, and residential address. The verifications were due back by November 27, 2017. [Exhibit A, pp. 12-13.]
6. On November 28, 2017, the Department received a bank statement from Petitioner, but with no name on it. [Exhibit A, pp. 1 and 14.]
7. On November 28, 2017, the Department received another bank statement from Petitioner, which stated the following: (i) a checking account for the statement period of October 24, 2017 to November 22, 2017; (ii) joint checking account with Petitioner's name included; and (iii) the account had an ending balance of \$4,056.05. [Exhibit A, pp. 15-16.]
8. On November 28, 2017, the Department sent Petitioner a Notice of Case Action notifying him that his Cash Assistance (SDA application) was denied effective December 1, 2017, due to excess assets. [Exhibit A, pp. 8-11.]
9. On December 1, 2017, Petitioner verbally requested a hearing to protest his FAP denial. [Exhibit A, pp. 1-2.]
10. On December 5, 2017, Petitioner filed a hearing request, protesting the denial of his SDA application. [Exhibit A, pp. 2-3.]

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 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.

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.

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Health and Human Services (formerly known as the Department of Human Services) administers the SDA program pursuant to 42 CFR 435, MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

In this case, the Department denied Petitioner's FAP and SDA application. The undersigned Administrative Law Judge (ALJ) will address each issue separately below:

FAP application

First, Petitioner was denied FAP benefits due to his ineligible student status. On November 13, 2017, Petitioner applied for FAP benefits. [Exhibit A, pp. 19-42.] In the application, Petitioner reported that he was currently attending college full-time. [Exhibit A, p. 21.] Petitioner testified that he has not attended college in two-years due to his disability. He indicated that perhaps he checked "yes" to attending school in the application because he was used to completing similar forms in the past.

Subsequently, on November 15, 2017, the Department completed a telephone interview with Petitioner, in which the caseworker documented that Petitioner reported he was a full-time student. [Exhibit A, pp. 1 and 17.] Petitioner testified that he recalls speaking to the caseworker, but that he was never asked about him attending college full-time. The Department ultimately denied the FAP application due to his ineligible student status. [Exhibit A, pp. 4-7.]

For FAP cases, a person enrolled in a post-secondary education program may be in student status. BEM 245 (October 2017), p. 2. A person in student status must meet certain criteria in order to be eligible for assistance. BEM 245, p. 2.

For FAP cases, a person is in student status if he/she is:

- Age 18 through 49 and
- Enrolled half-time or more in a:
 - Vocational, trade, business, or technical school that normally requires a high school diploma or an equivalency certificate.
 - Regular curriculum at a college or university that offers degree programs regardless of whether a diploma is required.

BEM 245, pp. 3-4.

It was not disputed that Petitioner met the above requirements. Additionally, though, in order for a person in student status to be eligible, they must meet one the criteria listed in BEM 245, such as receiving FIP benefits, physically or mentally unfit for employment,

employed for at least an average of 20 hours per week and paid for such employment, etc... See BEM 245, pp. 4-5.

Based on the foregoing information and evidence, the Department properly denied Petitioner's FAP application due to him not being an eligible student. Petitioner claimed he indicated that he was attending college full-time in the application because he was used to completing similar forms in the past and that he was never asked by his caseworker about attending college during his telephone interview. However, the undersigned does not find Petitioner's arguments persuasive. Petitioner clearly indicated in his application that he was attending college. [Exhibit A, p. 21.] Furthermore, the Department presented evidence, a Case Comments – Summary, in which the caseworker documented that Petitioner reported he was a full-time student during the telephone interview. [Exhibit A, pp. 1 and 17.] Based on this evidence, the Department properly concluded that Petitioner was not eligible for FAP benefits due to his ineligible student status. See BEM 245, pp. 1-12. Petitioner can reapply for FAP benefits.

SDA application

Petitioner also applied for SDA benefits on November 13, 2017. [Exhibit A, pp. 19-42.] In the application, Petitioner reported that he has a checking account. [Exhibit A, p. 30.] On November 15, 2017, the Department sent Petitioner a VCL requesting proof of his checking account (and other verifications) and the verifications were due back by November 27, 2017. [Exhibit A, pp. 12-13.] On November 28, 2017, the Department received a bank statement from Petitioner, but with no name on it. [Exhibit A, pp. 1 and 14.] On November 28, 2017, the Department received another bank statement from Petitioner, which stated the following: (i) a checking account for the statement period of October 24, 2017 to November 22, 2017; (ii) joint checking account with Petitioner's name included; and (iii) the account had an ending balance of \$4,056.05. [Exhibit A, pp. 15-16.] On November 28, 2017, the Department sent Petitioner a Notice of Case Action notifying him that his Cash Assistance (SDA application) was denied effective December 1, 2017 due to excess assets. [Exhibit A, pp. 8-11.]

In response, Petitioner argued and/or asserted the following: (i) he did not dispute that his name was on the joint checking account or that he had access to the account at the time; (ii) the checking account belonged to his parents, it was never his money, and his name was on the account for emergency purposes only; (iii) his mother closed the checking account approximately two-weeks ago; and (iv) his caseworker should have notified him about the asset limit previously, so he would have dealt with the asset earlier (i.e., remove his name from the checking account).

Assets must be considered in determining eligibility for SDA benefits. BEM 400 (July 2017), p. 1. The Department determines asset eligibility prospectively using the asset group's assets from the benefit month. BEM 400, p. 3. Asset eligibility exists when the group's countable assets are less than, or equal to, the applicable asset limit at least one day during the month being tested. BEM 400, p. 3. At application, do not authorize SDA for future months if the person has excess assets on the processing date. BEM

400, p. 3. For pending SDA applications, use asset policy that is in effect for the month for which eligibility is being determined. BEM 400, p. 4. For SDA benefits, the asset limit is \$3,000 for cash, investments and retirement plans. BEM 400, p. 5.

An asset must be available to be countable. BEM 400, p. 9. Available means that someone in the asset group has the legal right to use or dispose of the asset. BEM 400, p. 9. The Department assumes an asset is available unless evidence shows it is not available. BEM 400, p. 9. Availability might also be affected by joint ownership and efforts to sell or the possibility of domestic violence. BEM 400, p. 10.

Jointly owned assets are assets that have more than one owner. BEM 400, p. 11. An asset is unavailable if all of the following are true and an owner cannot sell or spend his share of an asset: without another owner's consent; the other owner is not in the asset group; and the other owner refuses consent. BEM 400, p. 11. For joint cash assets, the Department counts the entire amount unless the person claims and verifies a different ownership. BEM 400, p. 12. Then, each owner's share is the amount they own. BEM 400, p. 12.

Additionally, cash assets include checking and draft accounts. BEM 400, p. 14. The value of the cash assets is the amount of money in the account or on deposit. BEM 400, p. 16.

Based on the foregoing information and evidence, the Department properly determined that Petitioner was over the asset limit for SDA benefits.

First, the undersigned finds the Department properly counted the entire amount in the checking account, despite the account being held jointly by Petitioner. [Exhibit A, pp. 15-16.] During the hearing, Petitioner acknowledged that he had access to the checking account during the time it was opened and that he could withdraw it without any restrictions. Thus, the Department properly budgeted the entire amount located in the jointly owned checking account when determining Petitioner's asset eligibility.

Second, Petitioner's checking account is a countable asset per policy. See BEM 400, p. 14. A review of the asset found that the lowest/ending balance was \$4,056.05 during the statement period of October 24, 2017 to November 22, 2017. [Exhibit A, pp. 15-16.] Therefore, because Petitioner's checking account is a countable asset and it had a balance of \$4,056.05, the Department properly determined the value of the checking account clearly exceeded the \$3,000 SDA asset limit. See BEM 400, pp. 3 and 5.


Accordingly, the undersigned finds that the Department properly determined that Petitioner was not eligible for SDA benefits because he was over the asset limit. Petitioner can reapply for SDA 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 (i) the Department acted in accordance with Department policy when it denied Petitioner's FAP application effective November 13, 2017; and (ii) the Department acted in accordance with Department policy when it denied Petitioner's Cash Assistance (SDA) application effective December 1, 2017.

Accordingly, the Department's FAP and SDA decisions are **AFFIRMED**.

EF/nr



Eric J. Feldman
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

DHHS

Linda Porter
609 North State Street
PO Box 278
Stanton, MI
48888

Montcalm County DHHS- via electronic
mail

BSC3- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

L. Karadsheh- via electronic mail

Petitioner

