



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

[REDACTED], MI [REDACTED]

Date Mailed: September 20, 2018
MAHS Docket No.: 18-006726
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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 August 9, 2018, from Lansing, Michigan. Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Anthony Couls, Hearing Facilitator.

ISSUE

Did the Department properly determine Petitioner's eligibility for Medical Assistance (MA) Healthy Michigan Program (HMP) and MA?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner was a recipient of MA.
2. On [REDACTED], 2018, Petitioner applied for FAP benefits. Department Exhibit 2.
3. During the subsequent interview, Petitioner reported that she was disabled, and her husband had a 401K with \$ [REDACTED] Department Exhibit 3, 6, and a-b.
4. On June 12, 2018, the Department Caseworker received a Medical Needs form as proof of disability from Petitioner. Department Exhibit 4.

5. On June 15, 2018, the Department Caseworker sent Petitioner a Health Care Coverage Determination Notice, DHS 1606, that she had excess assets for MA, which resulted in the closing of her MA case effective July 1, 2018. Department Exhibit 5.
6. On [REDACTED], 2018, the Department received a hearing request from Petitioner contesting the Department's negative action.
7. On July 5, 2018, the Department sent Petitioner a Verification Checklist, DHS 3503, that was due on July 16, 2018, for additional written verification. Department Exhibit 7.

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 was a recipient of MA. On [REDACTED], 2018, Petitioner applied for FAP benefits. Department Exhibit 2. During the subsequent interview, Petitioner reported that she was disabled, and her husband had a 401K with \$ [REDACTED] Department Exhibit 3, 6, and a-b. On June 12, 2018, the Department Caseworker received a Medical Needs form as proof of disability from Petitioner. Department Exhibit 4.

On June 15, 2018, the Department Caseworker sent Petitioner a Health Care Coverage Determination Notice, DHS 1606, that she had excess assets for MA, which resulted in the closing of her MA case effective July 1, 2018. Department Exhibit 5. On [REDACTED], 2018, the Department received a hearing request from Petitioner contesting the Department's negative action. On July 5, 2018, the Department sent Petitioner a Verification Checklist, DHS 3503, that was due on July 16, 2018, for additional written verification. Department Exhibit 7.

Petitioner's income has not been verified. There were no budgets submitted that showed excess income with written verification of the income for MA HMP. In addition, the 401k may be exempt as a retirement account. However, the Department is supposed to send the written verification to the Asset Division in Central Office for a

written verification if it is a countable asset or not, then a written notice to Petitioner. BAM 115. BEM 137, 163, 166, 211, 400, and 501.

DECISION AND ORDER

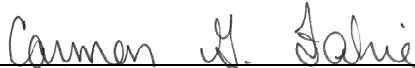
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner's eligibility for MA disability asset-wise and MA HMP income-wise.

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 of initiating a redetermination of Petitioner's eligibility for MA disability and MA HMP retroactive to July 1, 2018.

Based on policy, the Department should provide Petitioner with written notification of the Department's revised eligibility determination and issue Petitioner any retroactive benefits she/he may be eligible to receive, if any.

CF/dh



Carmen G. Fahie
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

DHHS

Jeanenne Broadnax
25637 Ecorse Rd.
Taylor, MI 48180

Wayne County (District 18), DHHS

BSC4 via electronic mail

EQAD via electronic mail

D. Smith via electronic mail

Petitioner

[REDACTED]
[REDACTED]
[REDACTED], MI [REDACTED]