



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

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Date Mailed: August 30, 2018
MAHS Docket No.: 18-007507
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

Following Petitioner's July 23, 2018, hearing request, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on August 29, 2018, from Lansing, Michigan. Petitioner, [REDACTED] appeared and represented himself. Petitioner did not have any additional witnesses. Valarie Foley, Hearing Facilitator, appeared and represented the Department. The Department did not have any additional witnesses.

One exhibit was admitted into evidence during the hearing. An 11-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUE

Did the Department properly deny Petitioner's request for Medical Assistance (MA)?

Did the Department properly deny Petitioner's request for 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 [REDACTED] 2018, Petitioner applied for assistance from the Department, including MA and FAP benefits. In Petitioner's application, he disclosed that he has \$49,024.43 in assets.
2. On July 13, 2018, the Department issued a Health Care Coverage Determination Notice and a Notice of Case Action. The Notices informed Petitioner that he was

ineligible for MA and FAP benefits because his assets exceeded the Department's limit.

3. On [REDACTED] Petitioner requested a hearing to dispute the Department's decision. Petitioner asserted that his assets are unavailable because they consist of securities which have been frozen by action of the Securities and Exchange Commission (SEC).

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 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 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 order to be eligible for health care coverage under the Aged or Disabled (AD) program, Medicare Savings Program, or the group 2 Aged, Blind, and Disabled program, a client must meet the Department's asset limit. In order to be eligible for FAP benefits, a client must meet the Department's asset limit. Countable assets cannot exceed the asset limit in BEM 400. BEM 163 (July 1, 2017), p. 2; BEM 165 (January 1, 2018), p. 8; and BEM 166 (April 1, 2017), p. 2. An asset is countable if it is available and not it is not a specifically excluded asset. BEM 400, p. 2. An asset is excluded if determined to be non-salable. BEM 400, p. 14. Asset eligibility exists when the asset 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. 7. For health care coverage through the AD program and group 2 Aged, Blind, and Disabled program, the asset limit is \$3,000.00 for a group size of two or more. BEM 400, p. 8. For health care coverage through the Medicare Savings Program, the asset limit is \$11,340.00 for a group size of two or more. BEM 400, p. 8. For FAP benefits, the asset limit is \$5,000.00. BEM 400, p. 5-6.

Here, Petitioner disclosed on his application that the value of his assets was \$49,024.43. Petitioner's assets as stated on his application clearly exceeded the Department's asset limit. However, Petitioner asserted at the hearing that his assets were not available to him because they consisted of securities which could not be sold. When Petitioner applied for assistance, the Department did not ask Petitioner whether his assets were available. Had the Department asked Petitioner whether his assets were available, Petitioner would have had the opportunity to disclose that his assets were not available and then the Department would have had the opportunity to verify whether his assets were available or not. If Petitioner's assets were unavailable as he asserted, then they would not have been countable, and he would have met the Department's asset limit.

The Department should have asked Petitioner if his assets were available before the Department denied him assistance for exceeding the asset limit, and the Department did not present any evidence to establish that it asked Petitioner about his assets. Therefore, the Department's decision to deny Petitioner benefits must be reversed because the Department did not properly consider Petitioner's countable assets.

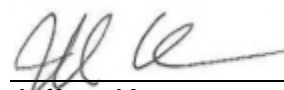
DECISION AND ORDER

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 did not act in accordance with its policies and the applicable law when it issued its July 13, 2018, decision.

IT IS ORDERED the Department's decision is **REVERSED**.

IT IS FURTHER ORDERED that the Department shall initiate a review of Petitioner's eligibility by reconsidering his countable assets.

JK/nr



Jeffrey Kemm
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

Susan Noel
26355 Michigan Ave.
Inkster, MI
48141

Wayne 19 County DHHS- via electronic mail

BSC4- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

D. Smith- via electronic mail

EQAD- via electronic mail

Petitioner

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