



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: December 21, 2018
MAHS Docket No.: 18-012080
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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, a telephone hearing was held on December 20, 2018, from Lansing, Michigan. Petitioner was represented by her authorized hearing representative [REDACTED]. The Department of Health and Human Services was represented by Shanna Ward.

ISSUE

Did the Department of Health and Human Services (Department) properly determine Petitioner's eligibility 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, the Department received Petitioner's application for assistance. Exhibit A, pp 7-13.
2. Petitioner reported on her [REDACTED], 2018, application for assistance that she possessed cash assets in excess of \$2,000. Exhibit A, p 11.
3. On September 4, 2018, the Department received Petitioner's Health Care Coverage Supplemental Questionnaire (DHS-1004). Exhibit A, pp 14-17.
4. Petitioner receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$1,857. Exhibit A, pp 27-29.
5. Petitioner has verified monthly housing expenses of \$838.

6. Petitioner is responsible for a monthly premium for a Medicare Part B premium of \$134, and a Medicare Part D premium of \$20.40, which are ongoing expenses.
7. Petitioner is responsible for paying an attendant \$73 per month.
8. On September 21, 2018, the Department notified Petitioner that she was not eligible for Medical Assistance (MA) effective August 1, 2018. Exhibit A, p 6.
9. On September 21, 2018, the Department notified Petitioner that she was eligible for a \$15 monthly allotment of Food Assistance Program (FAP) benefits. Exhibit A, pp 48-51.
10. On November 29, 2018, the Department notified Petitioner that she was not eligible for Medical Assistance (MA) or the Medicare Savings Program (MSP) effective August 1, 2018. Exhibit A, pp 24-25.
11. On November 9, 2018, the Department received Petitioner's request for a hearing protesting the denial of Medical Assistance (MA), and the amount of Food Assistance Program (FAP) benefits she is receiving. Exhibit A, p 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.

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.

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 (January 1, 2018), pp 1-7.

The asset limit for a group of one to receive FAP is \$5,000. BEM 400, p 5. The asset limit for a group of one to receive MA is \$2,000. BEM 400, p 8.

On August 22, 2018, the Department received Petitioner's application for MA benefits. Petitioner is not eligible for "full Medicaid" under the Healthy Michigan Plan (HMP) because she is eligible for Medicare, and she is not eligible under the AD-CARE program because her monthly income exceeds the federal poverty level. Department of Health and Human Services Bridges Eligibility Manual (BEM) 163 (July 1, 2017), p 1.

Petitioner is not eligible for MA benefits under the G2S category because she reported countable assets exceeding \$2,000 on her application for assistance. See BEM 400. Therefore, the Department notified her that her application for MA had been denied.

Petitioner received RSDI in the gross monthly amount of \$1,857. Due to her age, Petitioner is eligible to a deduction for verified out of pocket medical expenses exceeding \$35. Petitioner is responsible for Medicare premiums in the monthly amounts of \$134 and \$20.40. Petitioner also pays for an attendant to assist her due to her physical limitations, which the Department does not dispute are countable medical expenses. Petitioner's adjusted gross income of \$1,507 was determined by reducing her total monthly income by the \$158 standard deduction and the total of her verified medical expenses over \$35.

Petitioner is entitled to a \$628 shelter deduction for countable shelter expenses. This was determined by adding her \$838 housing expenses to the \$543 standard heat and utility deduction, then subtracting 50% of her adjusted gross income.

Petitioner's net monthly income of \$879 was determined by reducing her adjusted gross income by the shelter deduction. A group of one with a net income of \$879 is entitled to a \$15 monthly allotment of FAP benefits. Department of Health and Human Services Reference Table Manual (RFT) 260 (October 1, 2018), p 13.

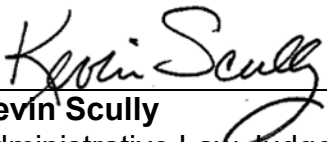
Petitioner's representative testified that Petitioner has other medical expenses, which would be valid deductions towards her eligibility for FAP benefits, but the record evidence does not support a finding that these countable expenses were sufficiently verified by the application material that was submitted to the Department. Any additional medical expenses that Petitioner can provide verification for will change Petitioner's eligibility for future benefits.

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 determined Petitioner's eligibility for Medical Assistance (MA) and Food Assistance Program (FAP) benefits.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

KS/hb



Kevin Scully
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

Amber Gibson
5303 South Cedar
PO BOX 30088
Lansing, MI 48911

Ingham County, DHHS

BSC2 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

[REDACTED]

Authorized Hearing Rep.

[REDACTED]