

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-018388
Issue No.: 2002, 3002
Case No.: [REDACTED]
Hearing Date: February 4, 2015
County: Oakland (02)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

Following Claimant'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 February 4, 2015, from Detroit, Michigan. Participants included the above-named Claimant. Robert Akouri appeared as Claimant's authorized hearing representative (AHR) and legal counsel. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], specialist, and [REDACTED] Supervisor. [REDACTED] of the Office of Attorney General appeared as DHS' legal counsel.

ISSUE

The issue is whether DHS properly terminated Claimant's Medical Assistance and Food Assistance Program eligibility due to Claimant's failure to verify self-employment income.

FINDINGS OF FACT

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

1. Claimant was an ongoing MA and FAP benefit recipient.
2. Claimant was the owner of two small businesses.
3. On an unspecified date, DHS determined that Claimant was eligible for FAP and MA benefits.
4. On [REDACTED], DHS mailed Claimant a Verification Checklist (Exhibit 313) requesting proof of Claimant's self-employment income; the VCL due date was [REDACTED]

5. On an unspecified date, Claimant reported that he had no business income because his business expenses exceeded his business income.
6. DHS determined that Claimant insufficiently reported business income
7. On [REDACTED], DHS terminated Claimant's FAP eligibility, effective 10/2014, and mailed a Notice of Case Action (Exhibits 2-5) informing Claimant of the termination.
8. On [REDACTED], DHS initiated termination of Claimant's and his children's MA eligibility, effective 1/2015, and mailed a Health Care Coverage Determination Notice (Exhibits 317-319) to Claimant.
9. On [REDACTED] Claimant requested a hearing to dispute the termination of FAP and MA eligibility.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015. Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM) and Department of Human Services Bridges Eligibility Manual (BEM) and Department of Human Services Reference Tables Manual (RFT).

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 Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM) and Department of Human Services Bridges Eligibility Manual (BEM) and Department of Human Services Reference Tables Manual (RFT).

Prior to a substantive analysis of the hearing request, it should be noted that the request noted that Claimant's main language was Arabic. Claimant testified that he spoke fluent English and that he did not require any language accommodation in order to participate in the administrative hearing.

Claimant requested a hearing to dispute a termination in MA and FAP eligibility. DHS initially had difficulty stating the reason for Claimant's benefit eligibility termination. DHS eventually stated that Claimant failed to adequately verify business income.

Claimant suggested that DHS terminated Claimant's benefit eligibility in retaliation for recurring complaints made by Claimant against DHS, including some to the Office of the Governor. DHS responded that Claimant's benefit eligibility was justifiably reviewed based on DHS policy.

For all programs other than Children Under 19, DHS is to verify all non-excluded income: at application, including a program add; at member add, only the income of the member being added; at redetermination; or when program policy requires a change be budgeted. BEM 500 (1/2014), p. 12. DHS is to not verify starting and increasing income unless income change information is unclear, inconsistent or questionable. *Id.*

DHS presented a Profit and Loss Form (Exhibit 299) for Claimant's wallpaper business. Over the period of 1/2014-3/2014, the document reported that Claimant earned \$953.50 in income, while Claimant's expenses exceeded \$6,000.00. Claimant's reported net loss was \$5249.31.

DHS presented Self-Employment Income and Expense Statements (Exhibits 300-311) for Claimant's wallpaper business. The Claimant-completed forms reported no income, though Claimant reported combined expenses over \$5,000 for the period of 12/2013-5/2014.

The presented documents verified that Claimant reported either no business income or a small amount of business income relative to substantial business expenses. Claimant failed to provide supporting income documentation and expense receipts to verify any reported income or expenses. The documentation was highly persuasive evidence that DHS was justified in seeking further income verification from Claimant.

Claimant's contention that DHS was acting out of spite is without merit. The above analysis somewhat establishes that Claimant's business income was less than ideal. The analysis is also superfluous because it does not address whether DHS properly terminated Claimant's MA and FAP eligibility.

Claimant testified that he started a vitamin shop (an S-corporation) because his first business was unprofitable. DHS policy addresses how DHS counts income from S-corporations.

Bridges counts the income a client receives from an S-Corp or LLC as wages, even if the client is the owner. BEM 501 (7/2014), p. 7. Wages are the pay an employee receives from another individual organization or S-Corp/LLC. *Id.*, p. 6. Wages include salaries, tips, commissions, bonuses, severance pay and flexible benefit funds not used to purchase insurance. *Id.*

Claimant testified that he ran up tens of thousands of dollars in debt trying to make his vitamin shop profitable. Claimant provided DHS with dozens of recent credit card statements to support his testimony. The evidence overwhelmingly established that Claimant was in substantial debt, in some part related to his businesses.

It was not disputed that Claimant reported to DHS that he paid himself \$0 because of the massive debt associated with his vitamin shop business. Claimant contended that all of his income went to his massive business debt. When DHS asked Claimant how he was paying his expenses, Claimant reported to DHS that he lived off of his wife's income (\$2,000/month), various debts, and credit cards. DHS disproved Claimant's contention.

DHS presented multiple Claimant credit card statements (Exhibits 16-298) from 2014. DHS also presented a summary of Claimant's credit card payments for the months of 3/2014-9/2014 (Exhibits 10-12). Based on DHS computations (which were not disputed), Claimant spent an average of \$1,863/month on credit cards for the period of 3/2014-9/2014. Claimant testified conceded that he also made \$1,341/month mortgage payments on his house, while his utility bills averaged \$250/month. Claimant's total expense payments averaged over \$3,000.

DHS concluded that Claimant must have more than \$0 in business income if Claimant is paid over \$3,000/month in expenses during a 7 month period when \$2,000 in income was reported. For Claimant to be unable to account for \$1,000/month for a 7 month period is highly persuasive evidence that Claimant failed to sufficiently verify income.

For all programs, DHS is to use the DHS-3503, Verification Checklist to request verification. BAM 130 (7/2013), pp. 2-3. DHS must give clients at least ten days to submit verifications. *Id.*, p. 3 DHS must tell the client what verification is required, how to obtain it, and the due date. *Id.*, p. 2. For FAP benefits, DHS is to send a negative action notice when the client indicates refusal to provide a verification, or the time period given has elapsed and the client has not made a reasonable effort to provide it. *Id.*, p. 5. For MA benefits, DHS is to send a negative action notice when the client indicates refusal to provide a verification, or the time period given has elapsed. *Id.*, p. 6.

DHS mailed Claimant a VCL on [REDACTED] requesting proof of Claimant's income by 9/29/14. Claimant bought extra time by claiming that he lived off of his credit cards. Though Claimant bought extra time, Claimant's subsequently submitted credit card statements only verified that Claimant failed to adequately report income.

Based on Claimant's verified expenses exceeding his reported income, DHS properly concluded that Claimant failed to adequately report and/or verify his income. Accordingly, the termination of Claimant's MA and FAP eligibility was proper.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly terminated Claimant's FAP eligibility, effective 10/2014, and MA eligibility, effective 1/2015. The actions taken by DHS are **AFFIRMED**.



Christian Gardocki
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **2/12/2015**

Date Mailed: **2/12/2015**

CG / hw

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS **MAY** order a rehearing or reconsideration on its own motion.

MAHS **MAY** grant a party's Request for Rehearing or Reconsideration when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The party requesting a rehearing or reconsideration must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088 and be labeled as follows:

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

CC:

