

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

IN THE MATTER OF:

[REDACTED]

MAHS Reg. No.: 15-022130
Issue No.: 3002
Agency Case No.: [REDACTED]
Hearing Date: January 20, 2016
County: Wayne (19)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on January 20, 2016, from Detroit, Michigan. Petitioner appeared and was represented by [REDACTED]. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], hearing facilitator.

ISSUE

The issue is whether MDHHS properly terminated Petitioner's Food Assistance Program (FAP) eligibility due to a failure to verify unearned 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. Petitioner was an ongoing FAP benefit recipient.
2. On [REDACTED], MDHHS mailed Petitioner a letter requesting information concerning allegedly unreported unearned income.
3. Petitioner responded by informing MDHHS he was unaware of any unreported unearned income.
4. On [REDACTED], MDHHS mailed Petitioner a Verification Checklist (Exhibit 1, pp. 1-2) requesting "Other Unearned" information.

5. Petitioner again responded by informing MDHHS that he could not verify income of which he was unaware.
6. On [REDACTED], MDHHS terminated Petitioner's FAP eligibility, effective December 2015, due to Petitioner's failure to verify unearned income.
7. On [REDACTED], Petitioner requested a hearing to dispute the termination of FAP benefits.

CONCLUSIONS OF LAW

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. MDHHS (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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute a termination of FAP eligibility. MDHHS presented a Notice of Case Action (Exhibit 1, pp. 3-6) dated November 18, 2015. The notice stated Petitioner's FAP eligibility ended due to an alleged Petitioner failure to verify unearned income.

[For all programs, MDDHS is to] use the DHS-3503, Verification Checklist to request verification. BAM 130 (7/2015), p. 3. [MDDHS must] allow the client 10 calendar days (or other time limit specified in policy) to provide the verification that is requested. *Id.*, p. 6. [MDHHS] must tell the client what verification is required, how to obtain it, and the due date. *Id.*, p. 3. The client must obtain required verification, but the local office must assist if they need and request help. *Id.*

It was not disputed that MDHHS mailed Petitioner two requests for unearned income information. It was not disputed that Petitioner responded to both requests by informing MDHHS that he had no unearned income (other than previously reported Social Security Administration income). Given presented evidence, Petitioner's denial of knowing what income MDHHS sought to verify was credible.

The Department of Human Services (DHS) routinely matches recipient and applicant data with other public and private agencies through computer data exchanges. BAM 800 (April 2015), p. 1. Data exchanges assist in the verification of income, assets and other eligibility factors for DHS recipients and applicants. *Id.* Data exchange information must be reconciled with information contained in DHS case records. *Id.*

MDHHS testimony implied the unearned income request was triggered by information obtained in a data exchange of information. The MDHHS Hearing Summary implied the

first mailed request to Petitioner included details of the income (e.g. amount, date/dates of income, source of income...). The MDHHS Hearing Summary further indicated the document would be brought to the hearing; it was not. During the hearing, MDHHS was unable to provide any information about the allegedly unreported income except that it was unearned (i.e. non-employment).

Petitioner cannot be faulted for failing to verify income when MDHHS cannot identify what kind of income was not verified. Comparably, a termination of benefits based on a failure to verify income cannot be upheld when MDHHS cannot provide information to justify the request for verification. It is found that MDHHS improperly terminated Petitioner's FAP eligibility.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly terminated Petitioner's FAP eligibility. It is ordered that MDHHS perform the following actions within 10 days of the date of mailing of this decision:

- (1) reinstate Petitioner's FAP eligibility, effective December 2015; and
- (2) supplement Petitioner for any benefits improperly not issued.

The actions taken by MDHHS are **REVERSED**.



Christian Gardocki

Administrative Law Judge

for Nick Lyon, Director

Department of Health and Human Services

Date Signed: **1/22/2016**

Date Mailed: **1/22/2016**

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 copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from 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:

