



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

MIKE ZIMMER
DIRECTOR

[REDACTED] [REDACTED]
Date Mailed: April 13, 2016
MAHS Docket No.: 16-002430
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, telephone hearing was held on April 07, 2016, from Lansing, Michigan. Participants on behalf of Petitioner included [REDACTED]. [REDACTED] (Hearing Facilitator) represented the Department of Health and Human Services (Department).

ISSUES

Did the Department of Health and Human Services (Department) properly close the Petitioner's Medical Assistance (MA) benefits?

Did the Department of Health and Human Services (Department) properly determined the Petitioner's eligibility for the Food Assistance Program (FAP)?

FINDINGS OF FACT

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

1. The Petitioner was an ongoing Medical Assistance (MA) recipient.
2. On December 15, 2015, the Department sent the Petitioner a Redetermination (DHS-1010) with a due date of January 4, 2016. Exhibit A, p 3.
3. On January 10, 2016, the Department received the Petitioner's application for Food Assistance Program (FAP) benefits. Exhibit A, p 12.

4. The Department determined that the Petitioner's group received unearned income in the gross monthly amount of \$ [REDACTED] and no earned income. Exhibit 1, p 3.
5. On January 16, 2016, the Department notified the Petitioner that it would close his Medical Assistance (MA) as of February 1, 2016. Exhibit A, p 9.
6. On February 9, 2016, the Department notified the Petitioner that it had denied his application for Food Assistance Program (FAP) benefits. Exhibit A, p 29.
7. On February 19, 2016, the Department received the Petitioner's request for a hearing protesting the closure of his Medical Assistance (MA) benefits, and the amount of his monthly Food Assistance Program (FAP) allotment. 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.

Clients must cooperate with the local office in determining initial and ongoing eligibility and this includes the completion of necessary forms. Department of Human Services Bridges Assistance Manual (BAM) 105 (July 1, 2015), p 8.

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level when it is required by policy, required as a local office option, or information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. The Department uses documents, collateral contacts, or home calls to verify information. A collateral contact is a direct contact with a person, organization, or agency to verify information from the client. When documentation is not available, or clarification is needed, collateral contact may be necessary. Department of Human Services Bridges Assistance Manual (BAM) 130 (January 1, 2016), pp 1-9.

The Petitioner was an ongoing MA recipient when the Department initiated a routine review of his eligibility to receive continuing benefits. On December 15, 2015, the Department sent the Petitioner a Redetermination (DHS-1010) with a due date of January 4, 2016. When the Department did not receive the Petitioner's Redetermination form in a timely manner, it closed his MA benefits effective February 1, 2016.

This Administrative Law Judge finds that the Department was acting in accordance with policy when it closed his MA benefits for failure to return the Redetermination form.

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.

Non-immigrants (for example, students, tourists, etc.) and undocumented non-citizens are not eligible for FAP benefits. A non-immigrant temporarily enters the U.S. for a specific purpose such as business, study, temporary employment, or pleasure. When a person is admitted to the United States, a USCIS official will assign a non-immigrant category according to the purpose of the visit. Department of Health and Human Services Bridges Eligibility Manual (BEM) 225 (October 1, 2015), p 2.

The Department will disqualify members from the FAP group for failure to meet citizenship/alien status. Department of Health and Human Services Bridges Eligibility Manual (BEM) 212 (October 1, 2015), p 8.

The Department budgets a pro rata share of earned and unearned income of persons disqualified for not meeting citizenship/alien status requirements. Each source of income is prorated individually as follows:

1. The number of eligible FAP group members is added to the number of disqualified persons that live with the group.
2. Next the disqualified/ineligible person's income is divided by the number of persons in step 1.
3. Then the result in step 2 is multiplied by the number of eligible group members. Department of Health and Human Services Bridges Eligibility Manual (BEM) 550 (October 1, 2015), pp 3-4.

On January 10, 2016, the Department received the Petitioner's application for FAP benefits. There are five people in the Petitioner's household but not all of them meet the citizenship requirements to receive FAP benefits. The Department determined that there is one person in the group qualified to receive FAP benefits and then denied the Petitioner's FAP application based the group's total income for a group of one.

The Department determined that the Petitioner's income should be classified as unearned income but this determination is not supported by evidence on the record. The Department also failed to establish that a pro rata share of countable income was determined as directed by BEM 550.

This Administrative Law Judge finds that the Department was not acting in accordance with policy when it denied the Petitioner's application for FAP benefits based on income.

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 closed the Petitioner's Medical Assistance (MA) benefits but did not act in accordance with Department policy when it denied the Petitioner's Food Assistance Program (FAP) application.

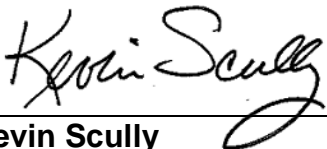
DECISION AND ORDER

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:

1. Initiate a determination of the Petitioner's eligibility for Food Assistance Program (FAP) as of January 10, 2016.
2. Allow the Petitioner a ten-day period to clarify his monthly expenses.
3. Provide the Petitioner with written notice describing the Department's revised eligibility determination.
4. Issue the Petitioner any retroactive benefits he may be eligible to receive, if any.

KS/las



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) 335-6088; 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

[REDACTED]

[REDACTED]

Petitioner

[REDACTED]