



RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR

[REDACTED]

Date Mailed: June 9, 2016  
MAHS Docket No.: 16-005802  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**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 June 1, 2016, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], specialist.

### **ISSUES**

The first issue is whether MDHHS terminated Petitioner's child's Medical Assistance (MA) eligibility.

The second issue is whether MDHHS properly denied Petitioner's Food Assistance Program (FAP) eligibility.

### **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], Petitioner applied for FAP benefits.
2. On [REDACTED], MDHHS mailed Petitioner a Verification Checklist (VCL) requesting proof of a loss of employment.
3. The due date for returning the loss of employment proof was [REDACTED].

4. On [REDACTED], Petitioner called MDHHS to report that her former employer utilized an web-based service for employee verifications.
5. MDHHS failed to utilize the web-based service to verify Petitioner's stopped employment.
6. On [REDACTED] MDHHS mailed Petitioner a Notice of Case Action denying Petitioner's FAP application due to a failure to verify a loss of employment.
7. On [REDACTED], Petitioner requested a hearing to dispute the FAP application denial and a termination off her child's MA benefits.
8. Petitioner's child had no lapse in MA benefits.

### **CONCLUSIONS OF LAW**

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

Petitioner requested a hearing, in part, to dispute MA benefits. Petitioner's hearing request indicated MA eligibility was "denied." Petitioner testified she intended to request a hearing concerning a termination of her child's MA eligibility. MDHHS denied that Petitioner's son's MA eligibility was ever threatened. Neither side verified an adverse action was taken to Petitioner's son's eligibility. As it happened, verification was not needed.

During the hearing, MDHHS presented to Petitioner documentation of Petitioner's child's Medicaid history. After examining the documents, Petitioner conceded her son has no lapse in MA coverage. Petitioner's hearing request will be dismissed concerning the MA benefit dispute as no further remedy can be granted to Petitioner.

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, in part, to dispute a denied FAP application. MDHHS presented a Notice of Case Action (Exhibit 1, pp. 1-3) dated [REDACTED]. The Notice of Case Action stated Petitioner's FAP application was denied for two reasons- net income exceeding the limit and failure to verify various items. MDHHS testimony conceded the only basis for denial was Petitioner's failure to verify a loss of employment; based on MDHHS' concession, a failure to verify a loss of employment will be the only basis for denial examined in this decision.

It is debatable whether MDHHS had a legitimate basis to request Petitioner's loss of employment. Presented evidence indicated Petitioner lost employment in January 2016. Generally, MDHHS can only mandate verification for employment lost within the 30 days before the application date; Petitioner's application date was [REDACTED]. There are circumstances which would allow MDHHS to require verification in the present case's circumstances. For purposes of this decision, it will be assumed that MDHHS was justified in requesting proof of Petitioner's stopped employment.

MDHHS presented a Verification Checklist (Exhibit 1, p.4) dated [REDACTED]. The VCL requested numerous items, including a Verification of Employment (Exhibit 1, pp. 7-8) to verify Petitioner's loss of employment from a seasonal job. The VCL due date was [REDACTED]. It was not disputed that Petitioner was unable to submit proof of her employment loss before the date MDHHS denied Petitioner's application ([REDACTED]).

[For all programs, MDDHS is to] use the DHS-3503, Verification Checklist to request verification. BAM 130 (July 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.*

Petitioner testified she informed her worker on or shortly before [REDACTED], that MDHHS could verify her stopped employment using a web-based service (EV Advantage). Petitioner testified she emailed MDHHS on [REDACTED], to inquire if MDHHS verified her stopped employment using the service. Petitioner testified that MDHHS responded by informing Petitioner that MDHHS did not use that specific service and some other method of verification would have to be used. Petitioner's testimony was credible and un rebutted. It was also consistent with the MDHHS case summary which stated Petitioner and MDHHS exchanged emails on [REDACTED].

The email exchange included a request for Petitioner to provide the company's fax number. The MDHHS case summary conceded Petitioner provided a fax number for the company. It was not disputed that MDHHS eventually obtained proof of Petitioner's employment income stoppage (though it was allegedly incomplete and returned tardily).

Petitioner's actions are indicative of cooperation and reasonable effort. Cooperation and effort were also demonstrated by Petitioner's timely submission of numerous other requested verifications.

If neither the client nor the local office can obtain verification despite a reasonable effort, [MDHHS is to] use the best available information. *Id.*, p. 3. If no evidence is available, [MDHHS is to] use... best judgment. *Id.* [For FAP benefits, MDHHS 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.

Presented evidence was highly suggestive that Petitioner made reasonable efforts in trying to verify her stopped employment. Presented evidence also indicated MDHHS was fairly helpful in assisting Petitioner... with one notable exception. It is not understood why MDHHS failed to attempt to verify Petitioner's employment through the reported web-based service. MDHHS has access to at least one other website which verifies employment information (theworknumber.com). Petitioner's specialist and/or MDHHS as a whole should be able to access any web-based service. If MDHHS is unable to do so, specific reasons for not utilizing the service should be provided. No specific excuse for not utilizing the web-based service was provided.

Based on presented evidence, it is found MDHHS failed to assist Petitioner in obtaining verifications. Accordingly, it is found MDHHS improperly denied Petitioner's FAP application.

### **DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS resolved Petitioner's MA benefit dispute concerning her son's MA eligibility. Petitioner's hearing request is **PARTIALLY DISMISSED**.

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

- (1) Reinstate Petitioner's FAP application dated [REDACTED]; and
- (2) Process Petitioner's FAP application subject to the finding that MDHHS failed to assist Petitioner in obtaining verification of stopped employment by failing to utilize a web-based service which can be used to verify the employment stoppage.

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

CG/hw



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**Christian Gardocki**  
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]