



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: July 1, 2016
MAHS Docket No.: 16-006909
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 22, 2016, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], manager.

ISSUE

The issue is whether MDHHS properly denied Petitioner's Food Assistance Program (FAP) application due to a failure to verify current asset information.

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 requesting "current" checking account information.
3. On an unspecified date, Petitioner submitted a bank account covering February 2016.
4. On [REDACTED] MDHHS denied Petitioner's FAP application due to Petitioner's alleged failure to sufficiently verify assets.

5. On [REDACTED], Petitioner requested a hearing to dispute the denial 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 denial of FAP benefits. MDHHS presented a Notice of Case Action (Exhibit 1, pp. 4-8). The written notice listed various reasons for denying Petitioner's application, one of which was an alleged Petitioner failure to verify checking account information. MDHHS testimony conceded the only basis supporting the application denial was Petitioner's failure to verify assets.

[For FAP benefits, MDHHS is] to verify the value of countable assets at application... BEM 400 (April 2016), p. 56. Thus, there is no doubt that MDHHS was justified in examining Petitioner's assets. It is less certain that MDHHS properly followed their procedures in requesting verification and processing Petitioner's submission.

[For all programs, MDHHS is to] use the DHS-3503, Verification Checklist to request verification. BAM 130 (January 2016), p. 3. [MDHHS 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. [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

MDHHS presented a Verification Checklist (Exhibit 1, pp. 1-2) dated [REDACTED]. Among the requested items listed on the VCL was verification of a checking account. A "current statement" was specifically listed as an acceptable verification for the checking account.

A checking account statement is a document which MDHHS considers a non-permanent record. Nonpermanent documents must be current. *Id.*, p. 2.

It was not disputed that Petitioner timely submitted to MDHHS a bank statement covering the month of February 2016. MDHHS considered the submission to be insufficiently current.

[Non-income and non-medical...] nonpermanent documents are generally considered current if dated within 60 days before your eligibility determination. *Id.*, p. 2. Older documents may be used if available information indicates the document remains current and there have been no changes in circumstances. *Id.*

Petitioner's submitted asset verification was not dated, but a portion of it covered the period within 60 days from the application date. This consideration supports that Petitioner provided MDHHS with sufficiently "current" verification of assets.

MDHHS testimony indicated Petitioner sold a business in the days before the application. MDHHS accordingly contended that the present case demanded asset verification closer in time to the application date. The MDHHS contention might have been more persuasive had verification of business sale proceeds been specifically requested; the presented VCL contained no such specification.

It is found Petitioner submitted sufficient current asset verification. Accordingly, the application denial based on an alleged failure by Petitioner to submit current verification of assets was improper.

DECISION AND ORDER

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) Reprocess Petitioner's application subject to the finding that Petitioner submitted current proof of assets.

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

CG/hw



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]