



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: May 18, 2016
MAHS Docket No.: 16-003440
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, an in-person hearing was held on May 11, 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 terminated Petitioner's Family Independence Program (FIP) eligibility due to Petitioner's failure to verify employment.

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 FIP benefit recipient.
2. Petitioner was an ongoing participant with a Michigan Works! Agency (MWA).
3. On an unspecified date, Petitioner's MWA reported to MDHHS that Petitioner was employed with a temp agency.
4. On [REDACTED], MDHHS mailed to Petitioner a request for "Missing check stubs" from Petitioner's alleged temp agency employment.

5. On [REDACTED], Petitioner reported to MDHHS that he did not work for a temp agency.
6. On [REDACTED], MDHHS initiated a termination of Petitioner's FIP eligibility, effective March 2016, due to Petitioner's failure to verify employment income.
7. On [REDACTED], Petitioner requested a hearing to dispute the termination of FIP benefits.

CONCLUSIONS OF LAW

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. MDHHS (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131. 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 FIP eligibility. MDHHS presented a Notice of Case Action (Exhibit 1, pp. 1-4) dated February 3, 2016. The notice stated Petitioner's FIP eligibility ended due to a failure to verify information. MDHHS testimony clarified Petitioner specifically failed to verify employment 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.

MDHHS presented a Verification Checklist (Exhibit 1, pp. 5-6) dated [REDACTED]. A request for "Missing check stubs" was noted. The VCL did not clarify which check stubs were missing. Petitioner credibly testified he did not know either, though he learned shortly thereafter that MDHHS' intention was to request proof of Petitioner's employment with a temp agency.

MDHHS testimony indicated that Petitioner's specialist was informed of Petitioner's employment by Petitioner's MWA. During the hearing, MDHHS showed documentation (it was not admitted) from Petitioner's MWA listing the temp agency as Petitioner's employer. The evidence sufficiently verified MDHHS had reason to request verification of the employment from Petitioner.

Petitioner testified he never worked for the temp agency. Petitioner also dismissed the possibility that he registered with the agency to accept assignments. Petitioner testified he reported the same information to MDHHS.

Petitioner testified he came to the MDHHS office on or near [REDACTED], to report that he had never worked for the temp agency. Petitioner testified he got as far as the front window and was told that he should send a Verification of Employment to his alleged employer. Petitioner testified he found the employer's fax number on the internet and sent them a Verification of Employment form.

During the hearing, Petitioner's electronic document submission history was examined. Petitioner's document submission history included a Verification of Employment with the words "NOT FOUND" written across the top. Petitioner's writing of the temp agency's fax number was on the top of the form. Petitioner testimony alleged the temp agency sent the form to MDHHS; Petitioner's testimony was not verified as the document was neither signed nor dated. Though the document cannot be considered persuasive evidence that Petitioner was not employed with a temp agency, the document tended to corroborate Petitioner's testimony that he tried to verify he did not work for the temp agency.

Petitioner also testified he reported to MWA and his MDHHS specialist never working for the temp agency. Petitioner was unsure of his reporting date but he thought it was within a few days after [REDACTED]. Petitioner testified he recalled arguing in the MDHHS lobby with his specialist about the employment because she did not believe his reporting. Petitioner testified the director of the MWA where he reported also did not believe him.

MDHHS was unable to rebut Petitioner's testimony with testimony from his specialist (MDHHS testimony indicated Petitioner's specialist retired at the end of February 2016). MDHHS did not rebut Petitioner's testimony with testimony from any MWA representatives.

Perhaps most importantly, MDHHS did not rebut Petitioner's testimony with proof of income from the alleged employer. MDHHS is known to have access to Michigan Treasury information for clients. If Petitioner had worked for the temp agency, MDHHS should have been able to verify the employment with Petitioner's 2016 first quarter earnings.

During the hearing, MDHHS was asked what more Petitioner could have done to satisfactorily verify his reporting. MDHHS had no answer.

Based on presented evidence, MDHHS did not establish Petitioner worked for the temp agency for which income information was requested. Without sufficient proof of the temp agency employment, it cannot be stated that Petitioner failed to verify income. Accordingly, the termination of FIP benefits was improper.

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 FIP eligibility. 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 FIP eligibility, effective March 2016, subject to the finding Petitioner did not fail to verify "Missing Check stubs"; and
- (2) supplement Petitioner for any benefits improperly not issued.

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]