



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: September 28, 2016
MAHS Docket No.: 16-011600
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 September 22, 2016, from Warren, Michigan. Petitioner appeared and was unrepresented. [REDACTED], Petitioner's partner, testified on behalf of Petitioner. 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 excess 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 and his partner were ongoing FAP recipients.
2. On [REDACTED], Petitioner's partner received [REDACTED] as part of an inheritance.
3. On [REDACTED], Petitioner reported to MDHHS his partner received [REDACTED] in an inheritance, as well as reporting that [REDACTED] of the monies was spent.
4. MDHHS failed to request verification of Petitioner's reported change in assets.

5. On [REDACTED], MDHHS initiated a termination of Petitioner's FAP eligibility, effective July 2016, due to excess assets.
6. On [REDACTED], Petitioner requested a hearing to dispute his FAP eligibility (and a State Disability Assistance application denial which was separately addressed under registration # 16-011781).

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 benefits, effective July 2016. MDHHS presented a Notice of Case Action (Exhibit 1, pp. 6-9) which stated that Petitioner's assets exceeded the program limit.

Assets must be considered in determining eligibility for... FAP. BEM 400 (July 2016), p. 1. [Assets for FAP benefits must be,] \$5,000 or less. *Id.*, p. 5.

MDHHS did not present budget documents verifying which assets were considered in the determination that Petitioner was ineligible for FAP benefits. The MDHHS case summary implied that principal from a living trust (see Exhibit 1, pp. 11-43) was factored in the asset determination; MDHHS testimony conceded the trust principal was not factored. Despite an absence of an FAP asset budget, evidence was sufficient so that the specifics of the asset determination can be inferred.

It was not disputed Petitioner reported to MDHHS a gift of [REDACTED] (see Exhibit 1, p. 5) to his partner. It was not disputed the reporting occurred on [REDACTED]. Petitioner testimony conceded he had a bank account which had a balance of [REDACTED]. MDHHS mailed written notice of termination on [REDACTED], presumably based on the combination of Petitioner's bank account and his partner's inheritance proceeds. As it happened, the MDHHS asset determination failed to account for other information reported by Petitioner on [REDACTED].

Petitioner testified he also reported to MDHHS that approximately [REDACTED] of the [REDACTED] gift had been spent on pre-existing bills. Petitioner could not recall on which date this was reported to MDHHS, but presented evidence verified Petitioner submitted two bank receipts to MDHHS; the bank receipts had MDHHS date stamps verifying a submission date of [REDACTED]. Presumably, the bank receipts reflected Petitioner's attempt to verify to MDHHS that a portion of the [REDACTED] was spent as the account balances totaled

██████████. It is found Petitioner reported to MDHHS on ██████████, that he and his partner had less than ██████████ in assets.

After Petitioner's reporting, MDHHS had two options. MDHHS could have acknowledged Petitioner's bank receipt submission sufficiently verified Petitioner's group's assets to be under ██████████; in such a case, FAP benefit termination would not have been initiated because Petitioner's assets would have fallen under the program's asset limit. Because MDHHS initiated a termination of FAP benefits the day after Petitioner's reporting, it is presumed that MDHHS deemed the bank receipts to be unacceptable verification of a reported reduction in assets.

[For FAP benefits, MDHHS is to] verify the value of countable assets... when a change is reported. *Id.*, p. 58. [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

Instead of mailing a VCL, MDHHS initiated termination of Petitioner's FAP eligibility on ██████████. The action is consistent with Petitioner's testimony that he was told by his specialist that nothing could be done about the benefit termination. There was not only something MDHHS could have done, per MDHHS policy, there was something MDHHS had to do. The failure by MDHHS to mail petitioner a VCL before case closure is found to be 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 FAP 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 FAP eligibility, effective July 2016, subject to the finding that MDHHS failed to request verification (or accept verification) of Petitioner's reported change in assets; 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]