



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: November 16, 2016
MAHS Docket No.: 16-015163
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Darryl Johnson

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 November 10, 2016, from Lansing, Michigan. The Petitioner appeared on his own behalf. The Department of Health and Human Services (Department) was represented by Family Independence Manager [REDACTED] Eligibility Specialist [REDACTED] and Regulation Agent [REDACTED]

ISSUE

Did the Department properly deny Petitioner's application for Food Assistance Program (FAP) and Medical Assistance (MA) benefits?

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 applied for FAP and MA on September 9, 2016. (Exhibit 1 Pages 1-20.)
2. When he applied, he reported that he lived in [REDACTED] Michigan.
3. He provided the Department with a driver's license (Page 22) from Illinois, and that license gave his address in [REDACTED] Illinois.
4. He also provided the Department with two statements from his bank (Pages 23-24) that noted the same address in Illinois.

5. He provided a statement, purportedly from his mother (Page 25), that said he lived in [REDACTED] Michigan. Strangely, the signature of his mother is in a handwriting that is very different from the handwriting in the body of the statement. He had identified his mother as his authorized representative (Page 19).
6. Because of questions regarding his residence, the Department referred his application for a Front End Eligibility (FEE) investigation (Pages 26-27) by the Office of the Inspector General (OIG).
7. The OIG obtained information (Page 28) that Petitioner does not live with his mother at the address he gave in [REDACTED]. Instead, one of his sisters lives there and she reported that he does not live with her.
8. The FEE Investigation Report (Pages 34-38) indicates the OIG had spoken with Petitioner's two sisters who both confirmed that he does not live with his mother at the [REDACTED] address he provided, and that he does not pay rent to his mother.
9. On October 5, 2016, the Department mailed to Petitioner a Notice of Case Action (Pages 29-30) and a Health Care Coverage Determination Notice (Pages 31-33), informing him that his application was denied because he did not meet Michigan residency requirements.
10. On September 8, 2016, the Department received Petitioner's hearing request, protesting the denial of his FAP and MA.

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 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.

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.

BEM 220 (1/1/16) pp. 1-2 says:

CDC and FAP

A person is considered a resident while living in Michigan for any purpose **other than a vacation**, even if there is no intent to remain in the state permanently or indefinitely. Eligible persons may include:

- Persons who entered the state with a job commitment or to seek employment; and
- Students (for FAP **only**, this includes students living at home during a school break.)

Medicaid

A Michigan resident is an individual who is living in Michigan except for a temporary absence.

Residency continues for an individual who is temporarily absent from Michigan or intends to return to Michigan when the purpose of the absence has been accomplished.

Individuals who spend the winter months in a warmer climate and return to their home in the spring. They remain MI residents during the winter months.

In this case, Petitioner applied for FAP and MA, and said that he was a Michigan resident. The documentation that he provided was persuasive evidence that he was actually an Illinois resident. Acceptable address verification sources for FAP are a driver's license, other ID that provides a name AND address, mortgage or rent receipt, utility bills, or collateral contact with a person who knows the individual's living arrangement. BEM 220, p. 7. Verification of residence is not needed for MA. Id.

An address does not have to be verified for MA. Petitioner could have been eligible for MA without verifying his address. However, Petitioner affirmatively stated that he was living with his mother in [REDACTED] and that proved to be a false statement. When he signed his application (Page 20) he certified, "under penalty of perjury, that all the information I have written on this form or told my MDHHS specialist or my representative is true. I understand that I can be prosecuted for perjury if I have intentionally given false or misleading information, misrepresented, hidden, or withheld facts that may cause me to receive assistance I should not receive or more assistance

than I should receive.” Because Petitioner falsified information on his application, and because he failed to provide sufficient evidence that he resided in Michigan, he did not establish that he was eligible to receive benefits.

It is important to note that Petitioner was needlessly argumentative and disruptive during the hearing. He was repeatedly admonished to stop interrupting. He attempted to introduce documentation that he had brought to the hearing room in [REDACTED] but had not submitted to the Administrative Law Judge prior to the hearing. He was advised that the Notice of Hearing is very clear that documents must be provided to the Administrative Law Judge prior to the hearing. He was unwilling to accept that ruling and, despite warnings that the hearing would be concluded if he persisted in asking to have the documents admitted, he continued to insist that they be made a part of the record. Because of his continued refusal to listen to instructions, the hearing was concluded and this decision was based upon the documents that were admitted into evidence.

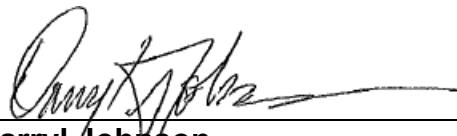
It is also important to note that the Department proceeded with the hearing using Petitioner’s cell phone instead of having a desk phone in the hearing room. The unavailability of a desk phone with adequate speaker/microphone functions further complicated the hearing. The Department is **STRONGLY** encouraged to provide a suitable phone for its hearing room.

DECISION AND ORDER

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 denied Petitioner’s application for FAP and MA.

Accordingly, the Department’s decision is **AFFIRMED**.

DJ/mc



Darryl Johnson
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]

Petitioner

[REDACTED]