



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: January 10, 2017  
MAHS Docket No.: 16-018068  
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 January 4, 2017, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], hearing facilitator.

### **ISSUES**

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

The second issue is whether MDHHS properly processed Petitioner's application for Food Assistance Program (FAP) 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 was an ongoing MA benefit recipient.
2. Petitioner was an ongoing FAP benefit recipient as a member of a FAP benefit group which included his spouse.
3. Petitioner may have been a disabled individual.

4. On [REDACTED], Petitioner applied for FAP benefits as a member of a FAP benefit group which did not include his spouse.
5. On [REDACTED], MDHHS terminated Petitioner's MA eligibility, effective October 2016, due to alleged excess income, and effective December 2016, due to alleged excess assets.
6. On [REDACTED], Petitioner reported to MDHHS a stoppage in employment income.
7. MDHHS did not request verification of Petitioner's employment income stoppage.
8. On [REDACTED], Petitioner requested a hearing to dispute the denial of FAP benefits and termination of MA benefits.
9. On [REDACTED], MDHHS approved Petitioner for MA through the Freedom-To-Work (FTW) category.

### **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 a termination of MA eligibility. MDHHS presented a Health Care Coverage Determination Notice (Exhibit 1, pp. 1-2) dated [REDACTED]. The notice informed Petitioner of MA ineligibility beginning October 2016, due to excess income.

Medicaid is also known as Medical Assistance (MA). BEM 105 (January 2016), p. 1. The Medicaid program comprise [sic] several sub-programs or categories. *Id.* To receive MA under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. *Id.*

It was not disputed that Petitioner was a recipient of RSDI. Petitioner's receipt of RSDI is suggestive of disability, though it is uncertain.

As of October 2016, Petitioner also happened to receive employment income. It was not disputed that Petitioner was eventually approved for MA benefits through FTW. FTW is

a MA category available to disabled persons who are also employed. Given presented evidence, it is reasonably possible that Petitioner is disabled. As a possibly disabled individual, Petitioner is potentially eligible to receive MA through the categories of Adult-Disabled Care (AD-Care) or Group 2 Spenddown. (G2S). As a disabled person with employment income, Petitioner may also be potentially eligible to receive MA through Freedom-To-Work (FTW).

Income eligibility for AD-Care exists when countable income does not exceed the income limit for the program. BEM 163 (October 2010), p. 1. The net income limit for AD-Care for a one-person MA group is \$1,010. RFT 242 (April 2016), p. 1.

For Group 2 [MA categories], eligibility is possible even when net income exceeds the income limit. BEM 105 (October 2016), p. 1. This is because incurred medical expenses are used when determining eligibility for Group 2 categories. *Id.* Group 2 categories are considered a limited benefit because a deductible is possible. *Id.*

MDHHS presented no budgets to justify a denial of any MA category. It can be deduced that a denial based on excess income was erroneous because Petitioner is possibly disabled and could have, at worst, been eligible for MA subject to a deductible. Presumably, the MDHHS determination failed to consider Petitioner's allegation of disability. MDHHS will be ordered to reconsider Petitioner's MA eligibility from October 2016 given Petitioner's possible disability. The analysis will proceed to determine Petitioner's eligibility from December 2016.

The notice dated [REDACTED], denied Petitioner's MA eligibility from December 2016 due to Petitioner's alleged failure to verify assets. An MDHHS case summary conceded the determination was erroneous. As it happened, MDHHS subsequently approved Petitioner for MA through FTW beginning December 2016 (see Exhibit 1, p. 3).

Persons may qualify under more than one MA category. *Id.*, p. 2. Federal law gives them the right to the most beneficial category. *Id.* The most beneficial category is the one that results in eligibility, the least amount of excess income or the lowest cost share. *Id.*

In the order for which MA categories must be considered, AD-Care comes before FTW (see *Id.*, p. 4). Thus, FTW eligibility presumes AD-Care ineligibility. MDHHS did not present any evidence to justify a denial of MA through AD-Care. BEM 163 outlines the procedures for determining AD-Care eligibility.

MDHHS gives AD-Care budget credits for employment income, guardianship and/or conservator expenses and cost of living adjustments (COLA) (for January through March only). Petitioner did not allege any such expenses. Income eligibility for AD-Care exists when countable income does not exceed the income limit for the program. BEM

163 (October 2010), p. 1. The net income limit for AD-Care for a one-person MA group is \$1,010. RFT 242 (April 2016), p. 1.

It was not disputed Petitioner received [REDACTED]/month in gross RSDI benefits. MDHHS testimony indicated other income was factored.

It was not disputed Petitioner was employed as of the date of his FAP application dated [REDACTED]. Petitioner testified he quit his job on [REDACTED] because of the strain of employment. It was not disputed that Petitioner and MDHHS discussed Petitioner's case on [REDACTED] after MDHHS sent notice of the improper MA termination. There was a dispute concerning what MDHHS and Petitioner discussed on [REDACTED].

Petitioner testified he reported to MDHHS that he quit his employment. The testimony was not verified but is credible given the context. MDHHS had just mailed Petitioner notice of a denial (on [REDACTED]), in part due to excess income. Petitioner would naturally assume that the denial factored the employment income he no longer had.

From Petitioner's specialist's notes, MDHHS testified that there was no indication of Petitioner's employment income stoppage. Petitioner's specialist failed to testify that Petitioner did not report the employment income stoppage. Given other MDHHS errors committed in this case, it is highly plausible that MDHHS failed to document Petitioner's employment reporting. It is found Petitioner reported an employment stoppage to MDHHS on [REDACTED].

MDHHS should have mailed Petitioner a request for verification in response to the income change. It is assumed MDHHS did not do so because MDHHS determined Petitioner eligible for FTW when Petitioner's stopped employment income would appear to put him below the income limit for AD-Care. Thus, MDHHS will be ordered to reconsider Petitioner's AD-Care eligibility based on Petitioner's reporting.

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 denial of FAP benefits. It was not disputed that Petitioner applied for FAP benefits on [REDACTED]. MDHHS presented a Notice of Case Action (Exhibit 1, pp. 4-5) dated [REDACTED]. The analysis will begin with a consideration of Petitioner's FAP eligibility for October 2016.

The notice dated [REDACTED] stated Petitioner's FAP eligibility was denied, in part, because Petitioner was active in another case. It was not disputed that Petitioner received FAP benefits in October 2016 as part of a FAP benefit case with his wife.

A person must not participate as a member of more than one FAP group in any given month... BEM 212 (October 2015), p. 10. Petitioner could not receive FAP benefits (as his own group) for October 2016 as it was not disputed that he already received FAP benefits as part of his wife's group. It is found MDHHS properly denied Petitioner's FAP eligibility for October 2016.

MDHHS testimony conceded Petitioner was removed from his wife's FAP group for November 2016. Thus, MDHHS could not have denied Petitioner's FAP eligibility for November 2016 for Petitioner being a member of another benefit group. In their case summary, MDHHS indicated Petitioner's application was denied for November 2016 due to Petitioner's alleged failure to verify assets; the case summary conceded Petitioner did not fail to verify assets. Instead, MDHHS alleged Petitioner was income-eligible to receive FAP benefits.

MDHHS failed to present a budget to justify the determination of income ineligibility. Without a budget, specific budget errors cannot be discussed during the hearing. MDHHS can be ordered to reprocess Petitioner's application, however, MDHHS could theoretically deny the application without making any changes to the FAP budget. Sufficient information was presented to examine one budget factor.

In the MA analysis, it was noted that Petitioner reported a stoppage of employment income to MDHHS on November 22, 2016. The same procedural requirement to verify the information applies to the FAP benefit analysis. The below order incorporates that reprocessing will have to factor Petitioner's employment income stoppage reporting.

### **DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly denied Petitioner's FAP application concerning eligibility for October 2016 based on Petitioner's inclusion in another FAP benefit group. The actions taken by MDHHS are **PARTIALLY AFFIRMED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly terminated Petitioner's MA eligibility. It is further found MDHHS improperly denied FAP eligibility to Petitioner. 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 MA eligibility, effective October 2016 subject to the following findings:
  - a. MDHHS failed to consider Petitioner's claim of disability;
  - b. Petitioner did not fail to verify assets; and

- c. Petitioner reported an employment income stoppage to MDHHS on [REDACTED]; and
- (2) Process Petitioner's FAP eligibility, effective November 2016, subject to the following findings:
- a. Petitioner did not fail to verify assets; and
- b. Petitioner reported an employment income stoppage to MDHHS on [REDACTED].

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]