



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 31, 2017
MAHS Docket No.: 16-019087
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 25, 2017, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], specialist.

ISSUE

The issue is whether MDHHS properly denied Petitioner's Food Assistance Program (FAP) application.

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. Petitioner's application reported employment income.
3. Petitioner's circumstances rendered her eligible to receive expedited FAP benefits.
4. On an unspecified date, MDHHS approved Petitioner's FAP eligibility for November 2016 and December 2016.

5. On [REDACTED], MDHHS mailed Petitioner a Verification Checklist (VCL) requesting proof of Petitioner's employment income from the last 30 days.
6. The due date to return income verifications was [REDACTED].
7. On or before [REDACTED], Petitioner submitted proof of employment income from the last 30 days.
8. On [REDACTED], MDHHS initiated termination of Petitioner's FAP eligibility.
9. On [REDACTED], Petitioner requested a hearing to dispute the termination 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 termination of FAP eligibility. MDHHS presented a Notice of Case Action (Exhibit 1, pp. 1-4) dated [REDACTED], which informed Petitioner of a termination of FAP eligibility beginning January 2017. The stated reason for termination was Petitioner's alleged failure to verify employment income.

[For all programs, MDHHS is to] use the DHS-3503, Verification Checklist to request verification. BAM 130 (July 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.

MDHHS presented a VCL (Exhibit 1, p. 5) dated [REDACTED]. The VCL requested proof of Petitioner's wages. Acceptable examples of verification (as stated on the VCL) included a Verification of Employment, the last 30 days of check stubs or earning statements.

MDHHS' first contention was that Petitioner only returned a Verification of Employment which she, not her employer, completed. MDHHS presented a Verification of Employment (Exhibit 1, pp. 7-8). The document was received by MDHHS on [REDACTED]. As MDHHS claimed, the Verification of Employment was completed by [REDACTED].

Petitioner. The Verification of Employment states that the document is to be completed by the employer, not by the client. Thus, Petitioner's completion of the document was not an acceptable verification of wages. When Petitioner was informed of this shortcoming during the hearing, Petitioner responded that she submitted check stubs to MDHHS which should have satisfied the verification request.

During the hearing, Petitioner and MDHHS were given time to check Petitioner's electronic case file to determine what checks, if any, Petitioner submitted. After a first examination, MDHHS testified Petitioner only submitted two biweekly check stubs- one for August 2016 and one for November 2016. MDHHS understandably contended the submission did not satisfy the 30 day income verification requirement. Petitioner responded by insisting that MDHHS was not reporting all of Petitioner's submitted check stubs. MDHHS and Petitioner were sent off to again examine Petitioner's electronic case file.

After a second examination, MDHHS conceded Petitioner submitted additional income verifications. MDHHS again claimed the submissions were insufficient for failing to verify a full 30 days of income. MDHHS then testified that Petitioner submitted two check stubs verifying pay periods from [REDACTED], through [REDACTED]. The checks verified Petitioner's 30 days of earnings despite MDHHS' statements to the contrary.

Once it was clear Petitioner verified her employment income, MDHHS then contended Petitioner had additional employment which was not verified. Petitioner testified she had one job which ended in September 2016 (long before MDHHS would need verification of the income). Petitioner also testified she briefly held a second job. Petitioner further testified she was only paid for tips she earned and received only one payment (at the time of VCL) in the form of a personal check. MDHHS testimony conceded Petitioner submitted a copy of a personal check.

During the hearing, MDHHS expended much energy repeatedly revising their testimony concerning what documents were submitted by Respondent. For each revision presented by MDHHS, MDHHS was proven wrong by Respondent.

It is found that Petitioner verified her employment income. Accordingly, the termination of Petitioner's FAP eligibility 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 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 January 2017, subject to the finding that Petitioner verified all employment income; 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]